PUBLIC SECTOR-GOVT. — JUSTICE

# MAY — JUNE

C/Press 2/5/93

# Family want re-trial — King style

(252)

By MARTIN NTSOELENGOE

THE family of Raymond Ndima, who was brutally battered at the Doornkop Military base south of Johannesburg and was later found dead, are pressing for a re-trial – like that of Rodney King in America

Family members said they were thoroughly dissatisfied with the light sentences given to two non-commissioned SADF officers

Family members claimed the case was "a total cover-up" because state witnesses were not brought before court to testify.

They were referring to a Sgt Papi who is stationed at the base but who could "not be found" by the investigating officer to give evidence.

Judge Van Schalkwyk and two assessors sentenced Sgt-Maj Willem Barent Snyman, 33, to 18 months' imprisonment of which six months were suspended for five years. Co-accused Johan Maree, 28, who had three previous convictions for assault, received a suspended sentence.

Solly Mbele, Ndima's friend who was also assaulted by the two soldiers, said that four days after Ndima had vanished, Papi had told him that he had seen Ndima in a "cage" cell at the military camp.

Ndima's semi-decomposed body was found four days later – a few metres outside the military camp.

Solly said he and Ndima were legally inside the camp visiting friend Bob Nakane on May 10 1991, when they were arrested

Mbele told the court he saw Ndima being dragged to a military van. Ndima was bleeding from his ears and nose. It was the last time he saw him.

Earlier he had heard Ndima screaming and begging for mercy in a nearby room while Mbele himself was being assaulted.

Benoni artist Robin Curwen said he witnessed the assault

**MR JUSTICE ISMAIL MAHOMED says the introduction of a bill of rights will shake the very foundations of our legal system. But implementing the bill will raise important challenges. This week, in an address to the Legal Resources Centre in Pretoria, he spelt out some of the challenges**

# Mountains that must be climbed to a bill of rights

S/Times 2/5/93

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## DISCRIMINATION

FUNDAMENTAL to any acceptable structure of a bill of rights is the right of all persons to equal treatment under the law and the right not to be discriminated against on the grounds of sex, race, colour, ethnic origin, religion, creed or social or economic status. But what does such an enactment mean? How must it be applied?

After what appeared to be an indefensibly long time the United States Supreme Court in 1954 decided that segregation in schools, which was as conspicuous a feature of American society as ours, violated the constitutional guarantee of equal protection of the laws accorded to every citizen

In doing so it had to weigh what was said to be the conflicting constitutional right to freedom of association, which some white parents invoked to insist that their children did not sit in the same classrooms as Afro-Americans

This conflict was resolved by analysing the nature of modern society, the role of education in the preparation for meaningful and effective citizenship and in meeting the opportunities created by a complex industrial culture, the stigma of segregation historically and the effect thereof on the development of the talents and the potential of the citizens adversely affected by its practice

The court had to weigh the disproportion in the comparative consequences of the alleged violation of the conflicting guarantees to reach a resounding conclusion against segregation, which transformed irreversibly the anticipated direction and structure of American society in every field of crucial endeavour.

## AFFIRMATIVE ACTION

SEGREGATION in such circumstances may be said to involve so monstrously indefensible a practice, and so demonstrably in conflict with the ethos of a probable new constitution for South Africa that it would require scant legal ingenuity in the interpretation of the provision in favour of equality.

But the complexities multiply infinitely in considering the meaning of that provision to meet the complaint that blacks who have historically been disadvantaged by an accumulated legacy of discrimination cannot properly be said to be able to enjoy equality with others not so disadvantaged, simply because segregation itself would in terms of the constitution be unlawful

How does the law respond to that argument? The validity and scope of affirmative action programmes might involve important issues of constitutional construction which might rationally and logically also extend to historical discrimination against women

Does a programme of affirmative action in favour of disadvantaged groups offend the guarantee against equality? If not, what are its permissible parameters?

Does a disproportionate allocation of public funds for education in areas factually occupied by blacks offend any fundamental guarantee in the constitution? Does a policy of preference for historically disadvantaged groups in the admission of students to educational institutions conflict with the fundamental rights of others?

Can there be any defensible constitutional basis for extending any such policy of preferment in admission also at the exit point of qualification? If not what are the rational criteria to be applied in the determination of such issues?

Are such criteria of application in areas outside of education, such as public housing and public employment? If not, what are the criteria, if any, which can rationally be formulated in other areas?

## THE LEGISLATURE

WHAT area of latitude must be allowed to the legislature in enacting laws in areas potentially impacted by the guarantee of fundamental rights? What is the legal test which has to be applied by the courts in determining whether the law-maker has, in any case, exceeded the permissible boundaries of such latitude?

Is this test uniformly the same, or are there to be different tests for different classes of legislation?

If so, by what criteria are the different standards to be determined? How is the potential tension, if any, between the legislative powers of the central parliament and that of a region to be resolved?

## ABORTION

A HOST of equally complex and sometimes even more agonising questions will arise in the application of other probable guarantees in the bill of rights Does the right to privacy include the right of a women to abort the foetus carried by her?

If so, up to what time during the period of gestation? Must it be subject to independent control? If so, what are the permissible dimensions of such control?

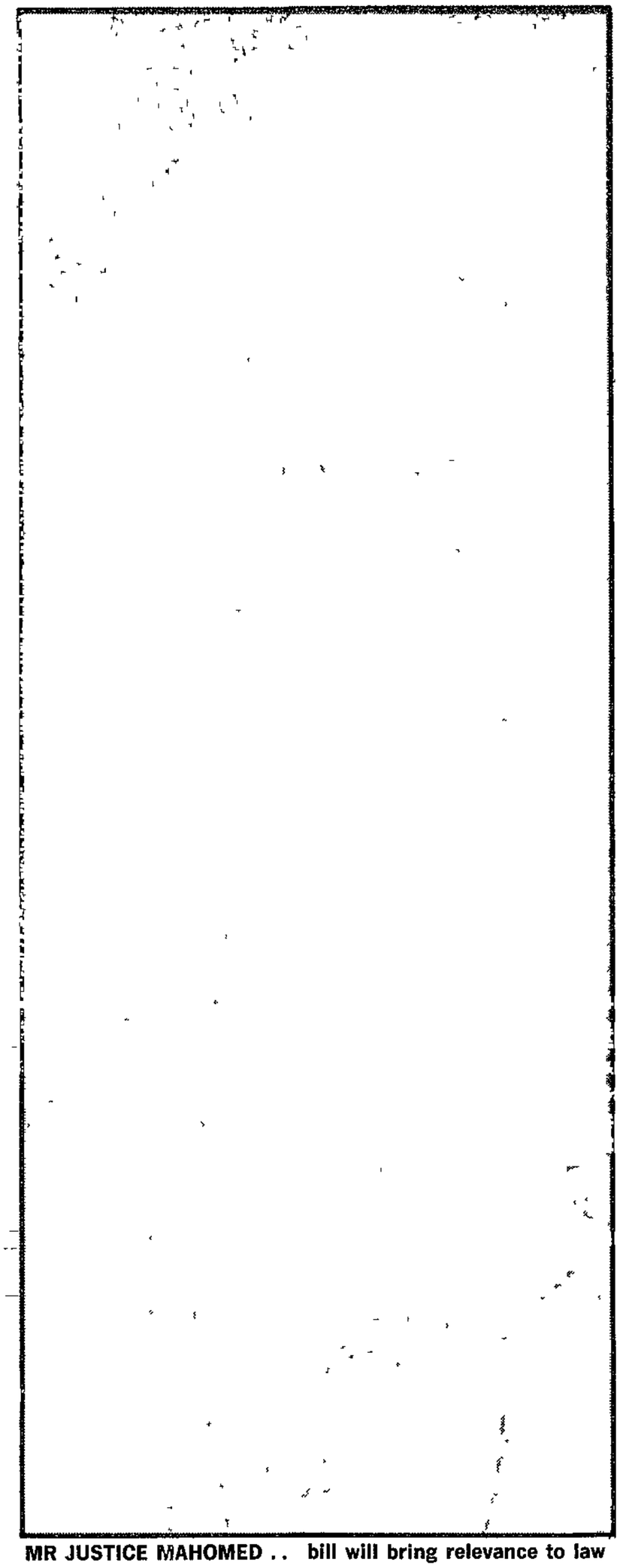
## FAIR TRIAL

DOES the right to a fair trial include the right of an accused person to be provided with a legal defence at state expense?

If so, is it a right which arises in each and every prosecution? If not, what are the circumstances in which such a right must be held to exist? What are the criteria to be applied in the determination of this issue?

## PROPERTY

DOES the right to own and occupy property contained in such a bill of rights exclude the right of the state to compulsorily expropriate such property for public purposes?



MR JUSTICE MAHOMED .. bill will bring relevance to law

If not, what purposes would be included within such a power?

In the absence of express constitutional provision would it exclude the purpose of redistributing land to those historically deprived of acquiring such land on racial or other irrational grounds?

If not, could such acquisition of property be competent without the payment of compensation to the expropriated owner? If not, on what test is such compensation to be determined?

If the relevant legislation provides for the payment of "just compensation", would this, in the absence of any express constitutional provision, oblige the state to pay compensation on the basis of market value?

If not, what would be the rational criteria applicable for the determination of such just compensation?

If the constitution expressly addresses itself to this issue by providing that compensation shall be determined by balancing the needs and interest of the state against the interest of the expropriated owner, how is this to be applied?

What constitutionally legitimate tests can be formulated to achieve this balance?

Does property in the context of expropriation also include incorporeals such as value rights awarded prior to the date of the constitution on racial or other arbitrary grounds?

Is the state in terms of the constitution entitled to repudiate such awards? And, if so, is it again obliged to offer compensation therefore?

## SOCIAL AND ECONOMIC RIGHTS

IN South Africa and in large parts of the developing world of Africa and Asia there is also a further dimension

This dimension is born from the protest that the traditional civil and political rights entrenched in a constitution and articulating the freedoms of thought, belief and conscience, the right to the expression of honest intellectual dissent, the equal protection of the laws, fair trial and an independent judiciary are necessary, but not sufficient conditions to secure a constitutional democracy.

Such rights, they protest, are of little relevance to those in large parts of the world including South Africa, degraded by unremitting proverty, chronic but curable disease, deep levels of demeaning malnutrition, debilitating illiteracy and natural disasters

A legitimate and meaningful human rights commitment, it is contended, needs to transcend the traditional parameters of first generation rights into those areas of social and economic concern which threaten the basic human right to dignity.

The proposition that those without work, without food and without shelter have equal right with the affluent and the comfortable to sleep under the bridges of the nation would, it is contended, legitimately be perceived as a mocking taunt from human rights apologists

It is a formidable protest which constitutions sometimes seek to accommodate in a chapter setting out "directives, principles of state policy" outside the directly enforceable guarantees pertaining to civil and political rights

Still others have tried to go further by seeking to accommodate such clearly distressing needs within the structure of fundamental rights, with a qualification that regard must be had to the resources and priorities of the nation

It is unlikely that some expression of such concerns will not be found in any meaningful constitution for South Africa in the future.

Constitutional law will have to evolve to identify the content and direction of such rights, how and to what extent they can be enforced, how legislation emanating from parliament and the policies of the executive pursuant thereto have to be interpreted in the light thereof and how governments can be held to be accountable for the progressive advancement of such rights, having regard to relevant national resources and priorities

It is potentially a very creative field for constitutional engineering and ingenuity, giving to the institution of judicial review a legitimacy and a promise which could scantly have been anticipated in 1803 when the Supreme Court of the United States first empowered the judiciary to strike down the acts of congress which violated the bill of rights

# Protest law in pipeline

S/Times 2/5/93

By CARMEL RICKARD

IF the Goldstone's commission's suggestions for a new law regulating public demonstrations are passed by Parliament, protest marches would become a legitimate form of political expression

Presently protest marches are regarded as a privilege which state bureaucrats can withhold without giving reasons

Mr Justice Richard Goldstone handed a copy of the draft legislation to President FW de Klerk last week and it is likely to be tabled soon.

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The draft is an updated form of an earlier proposal, released a few months ago after consultation with the major political parties.

If the proposed legislation is passed, the law will not only apply to marches and protest during the transition period, but in the future as well

It tries to balance the right to protest with the need for demonstrations to be peaceful and not infringe on the rights of others

Should the Bill become law, convenors of a mass demonstration would be required to give 10 days' notice to the local authority and provide relevant information

The local authority would then consult with an appointed police officer about whether negotiations were needed over any details of the planned protest. If problems exist, the convenors would be notified within 48 hours and asked to attend a meeting with local peace committees, police and the local authorities to discuss suggested changes to the convenors' plans.

If they cannot agree, the local authority may unilaterally amend the notice — but the convenors would then be able to appeal to the Supreme Court

During the protest, marshals would share responsibility with the convenors for ensuring no dangerous weapons are carried, no inciting speeches made and no building entrances blocked

The Bill does away with the old permit-based system, except for week-day protests at court buildings or Parliament, for which written permission has to be obtained

Should the local authority receive credible information of a serious safety threat, consultations must be held with the convenors and other parties to consider whether the protest should be prohibited. If the local authority then decides to prohibit the protest, the convenors may appeal to the Supreme Court. Should a judge prohibit the protest, the police must close off the area to prevent the gathering from going ahead

The Bill also lays down guidelines for police action to curb violence and protect life and property and spells out the civil liability of protest organisers

# Derby-Lewis detention necessary, court rules

B/Day 3/5/93

ADRIAN HADLAND

PRETORIA — Continued detention of CP member Clive Derby-Lewis under Section 29 of the Internal Security Act was justified, Judge T J Curlewis ruled in the Pretoria Supreme Court last week

Derby-Lewis, arrested last month in connection with the assassination of SACP leader Chris Hani, will be due for release on May 9 if a further extension is not sought by police

Curlewis said the use of "drastic" legislation to detain Derby-Lewis — Section 29 allows for solitary confinement and no access to lawyers or family — was justified as activities he was allegedly involved in could be seen as a threat to the integrity of the state

The 10-day extension was granted by Curlewis on the basis that Derby-Lewis was withholding information regarding a right-wing "conspiracy" to murder political opponents

Papers and affidavits before the court alleged Derby-Lewis and Janusz Walus, also in custody, had drawn up a list of political opponents to be assassinated These opponents were identified due to their participation in political developments contrary to the beliefs of Derby-Lewis and Walus

Police documents also indicated that Derby-Lewis had given Walus a gun and silencer with which to kill Hani over Easter

Curlewis expressed surprise during the application last week that proceedings were not held in camera Information made available to the public could prove contrary to Derby-Lewis's legal interests

By the time Derby-Lewis appeared in court, if this happened, he would already have been tried and hanged by the media, he said

Two further applications, brought by Derby-Lewis's stepson Andre Graser for the release of his parents on grounds of unlawful arrest, were dismissed with costs

In turning down the application for the release of Gaye Derby-Lewis, Curlewis said she had not been detained simply on the grounds that she was married to Clive, as argued by her counsel Hennie de Vos

The police had every reason to believe that she was "involved in the matter and was reluctant to talk", Curlewis said

It was alleged in court documents that Gaye Derby-Lewis had asked (Citizen reporter) Arthur Kemp to provide her with the addresses of people on the "hit list" in order that they could be murdered, Curlewis said

"If one reads the affidavits fairly it is perfectly clear the facts, if correct, demonstrate that she was involved whether directly or indirectly"

Should police require a further extension of Derby-Lewis's detention and interrogation under the Internal Security Act, a new application would have to be submitted before midnight on May 9

# Two get death sentences

Sowetan 3/5/93

**By Sowetan Correspondent**

## ■ REVENGE KILLING Attack on minibus was planned and executed cold-bloodedly:

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TWO MEN were given 10 death sentences each by the Supreme Court in Pietermaritzburg on Friday for murdering passengers of a minibus taxi nearly two months ago

The court found that Mabhungu Dladla (24) and Nkayiso Ndlovu (21) cold-bloodedly planned an attack on the minibus and then "executed" 10 men, women and children

The attack was carried out by Dladla and Ndlovu on March 5 as an act of revenge for the killing of six schoolchildren in the "Inkatha area" of Table Mountain three days earlier

Dladla, Ndlovu and at least one other person fired 38 rounds of ammunition or more from an AK-47, an R1 and a shotgun into the minibus in the Nkanyezini area of Table Mountain

"Neither of the accused had any reason to believe anyone in the bus had anything to do with the killing of the schoolchildren or, indeed, that they were supporters of the ANC rather than Inkatha," said Mr Justice Howard before passing sentence

"The accused were not content simply to rake the minibus with fire as it came past but persisted in their attack even after it had come to a standstill, when it must have been apparent they were slaughtering women and children "

Mr Howard found there were mitigating factors favouring both accused their relative youth, the fact that they were first offenders and the influence political violence in the area had upon them.

He said the courts had accepted that political influences could in some circumstances constitute mitigating factors

But each case had to be judged on its particular merits and it was necessary for the court to bear in mind the interests of society

"In my judgment the aggravating factors far outweigh the mitigating factors," he said "I am satisfied that this is a case where the death sentence is the only proper sentence "

Mr Howard sentenced Dladla and Ndlovu to an effective 10 years each on six counts of attempted murder Ndlovu was sentenced another eight and a half years for offences relating to the possession of arms and ammunition

# 7 in court over fires

SEVEN people appeared in the Johannesburg Regional Court on Friday on charges of setting fire to houses in the vicinity of the FNB Stadium and Crown Mines near Soweto Sowetan 3/5/93

The suspects, ranging in age from 18 to 38, were added as co-accused to the four suspects who appeared in court last week on the same charges

The incidents occurred during the service for slain South African Communist Party general secretary Chris Hani — *Sapa* (252)

# Govt land dispute plan rejected

B/DAY 3/5/93

MARIANNE MERTEN

GOVERNMENT's plan to set up an independent land rights advisory forum to assist with land claim settlements has been greeted with caution and criticism

Land Affairs Deputy Minister Johan Scheepers said in Parliament on Friday government did not support the idea of a land claims court proposed by the ANC because government lacked the financial means to implement such structures

A land claims court would also "create and contribute to conflict" as determining a historic cut-off date was discriminatory

Scheepers said the court would produce negative socioeconomic impacts because it gave a low priority to "the proper utilisation of land" and the basis of compensation threatened legal titles by not considering land titles

The Advisory Commission on Land Allocation (ACLA) did "offer solutions for numerous claims" In cases where the original land was state-owned, the relevant community should be given back its land

If disputed land was privately owned, alternative state land should be made available, he said

Negotiations between concerned parties would resolve disputes in other cases, Scheepers said

An Association for Rural Advancement spokesman said the organisation was "extremely cautious" about the establishment of the land rights advisory forum, as disposessed communities had not been canvassed

It was remarkable that government had rejected the land claims court and a moratorium on the sale of state-owned land — the only two effective short-term measures to resolve land claims, he said

A National Land Commission spokesman said on Friday the announcement was "another example of unilateral decision-making on behalf of government"

This amounted to signing "a blank cheque for the restructuring of land and rural development policy"

Commission director Joanne Yawitch had rejected consideration for appointment to the forum because its terms of reference had been set by government alone and its decisions could be ignored, she said

The commission also questioned the effectiveness of ACLA which, contrary to Scheepers' claims, had only settled two land disputes on behalf of the Roosboom and Charlestown communities in Natal

● See Page 4

# Advocates call for interim Bill of Rights

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SUSAN RUSSELL

THE general council of the Bar of SA has called for the introduction of an interim Bill of Rights enforceable by the courts, including the Appellate Division B/DAY 3/5/93

Chairman Brian Southwood said the council reaffirmed its support for introduction of a Bill of Rights and urged negotiating parties to agree on a new constitution at the earliest oppurtunity.

"Experience in countries such as Namibia has shown that the early introduction of an interim Bill of Rights greatly facilitates and enhances the process of creating such a rights culture," he said

"An interim Bill of Rights must be accompanied by adequate state provided resources to give all citizens inexpensive and expeditious access to the courts to enforce their rights"

The council was opposed to the entrenchment of the death penalty in the Bill of Rights, Southwood said.

"The question of whether the death penalty should be abolished because it is unconstitutional and/or in conflict with the Bill of Rights should be decided by the courts"

The widely divergent views of the members of the council's constituent Bars rendered it impossible for it to adopt an unequivocal view The council was unconditionally opposed to detention without trial even in a state of emergency

"The general council of the Bar believes the experience of the past decades has demonstrated beyond doubt that the executive cannot be entrusted or trusted with power to detain without trial"

He said it also believed Supreme Court judges should be chosen by a fully independent body in a way which ensured that judicial appointments fell outside the political arena.

It had reaffirmed its view that membership by a judge of any secret organisation was incompatible with judicial office "This is of particular importance when the secret organisation has political objectives"

The council also supported the appointment of a permanent Human Rights Commission

# e commends iance, police

/ HARTLEY

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:e and the national peace secre- ›r the relatively peaceful nature he death of SACP leader Chris ›ldstone said at the weekend commission unequivocally con- ›hich accompanied many of the re held Such conduct resulted in property and looting," he said

# Rival oil firms launch product war

B/DAY 3/5/93

DUMA GQUBULE

TWO of SA's largest oil companies are engaged in an advertising war over the cleansing ability of their brands of petrol

Caltex yesterday opened a nationwide advertising campaign defending the track record of its 20-year-old additive, CX3

The new Caltex campaign came just days after BP said it had come up with a "new generation" petrol capable of reducing dirty engine deposits

Since its launch in 1973, CX3 has been sold on its ability to keep car engine parts clean

The new BP newspaper ad features a photo of a filthy, muddy rally car with the blurb "BP's new generation petrol Proved to keep it clean on the inside"

Caltex GM Mike Rademeyer yesterday declined to comment on BP's claims

BP spokesmen were unavailable for comment yesterday

# Five die on Reef in weekend violence

B/DAY 3/5/93

STEPHANE BOTHMA

FIVE people were killed and two children were injured in several unrest related attacks on the Reef this weekend

On the East Rand, the bodies of two men with AK-47 rifle wounds were found at the Wattville Hostel in Actonville yesterday

In Katlehong, near Alberton, a woman's body was found in a field at Pharki section, police said

In Thokoza, also on the East Rand, an unknown woman was stoned to death by a group of people yesterday morning.

A man was shot dead in front of his house in Orlando West, Soweto, and in Orlando East two children were injured when a hand grenade was thrown at a house They were not seriously hurt, police said

The reasons for the attacks were not known and no arrests had been made.

In another incident yesterday, a Benoni hitchhiker was shot in the legs after four men offered him a lift near Kempton Park, East Rand police said.

Jacques Loots, 27, was hitchhiking in 3rd Avenue, Bredell, Kempton Park, at about 4am

Four men in a green Mazda offered him a lift, police spokesman Const Riaan Sadie said

As Loots was about to get into the car, one of the occupants drew a gun and started shooting at him As he fell, Loots managed to draw his own gun and return fire

The attackers drove off in the direction of Kempton Park, leaving Loots next to the road with several bullet wounds in both legs

The Advisory Commission on

# Advocates

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# Goldstone commends ANC alliance, police

RAY HARTLEY

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THE ANC alliance, police and the national peace secretariat deserved praise for the relatively peaceful nature of events surrounding the death of SACP leader Chris Hani, Judge Richard Goldstone said at the weekend

"At the same time the commission unequivocally condemns the criminality which accompanied many of the mass marches which were held Such conduct resulted in death, injury, damage to property and looting," he said

In a statement on a preliminary inquiry into the violence, Goldstone said "The ability of people to give physical and verbal expression to their feelings serves as an important safety valve and may prevent more uncontrolled and widespread violence

"However, the freedom to express those feelings and to protest in public cannot be allowed to cause widespread physical and mental injury to a substantial segment of society," he said B/DAY 3/5/93.

He said parties agreed the violence should be further discussed in a workshop, which will be closed to the public, in mid-May and no formal inquiry should be held

The worshop would discuss "causes of or reasons for the damaging or looting of private of public buildings or other property and the assault or death of members of the public," he said

Goldstone said the workshop would also look into

- ☐ The reasons for the failure of organisers of marches to obtain permission for the demonstrations from local authorities or magistrates,
- ☐ The steps taken by march organisers to prevent looting and violence,
- ☐ Incidents where people were killed "in the vicinity of police stations",
- ☐ The steps which should be taken to avoid a repetition of the looting and violence

Goldstone called for submissions on ways of improving the security of political leaders.

# Anger over police claims for legal costs

## Apartheid case judgments overturned — now Law and Order wants money back

JOSEPH ARANES
Staff Reporter

(252) ARG 3/5/93

THE police are claiming huge amounts in legal costs from individuals and anti-apartheid organisations countrywide who challenged detentions, bannings and regulations in court during the state of emergency

In many instances the activists won their cases, but the judgments were overturned when the Department of Law and Order took them on appeal

Now, years later, the department is demanding payment of its costs and threatening legal action

- A Cape Town woman whose husband was detained twice has had a demand for R40 000 for the department's costs of defending her applications for his release,
- The Western Cape region of the UDF owes more than R40 000 for a single application,
- The Mandela Birthday Committee co-ordinated by Dr Allan Boesak owes R24 718,58 after the Appellate Division ruled in the State's favour

In all three cases, the applications were won in the Supreme Court, Cape Town, but lost later on appeal

Leading civil rights lawyer Mr Essa Moosa, who raised the issue at Codesa, said the claims were a disgrace

He said during the years of the government's "total onslaught" thousands of people were detained and meetings and organisations were banned and restricted, but people challenged the validity of the oppressive laws and regulations in court.

"Organisations like the United Democratic Front and many individuals applied to the Supreme Court to overturn the State's draconian laws and state of emergency regulations and won

"On appeal however, the State managed to have these decisions reversed and now the individuals and organisations are being forced to foot the huge legal costs incurred by the State," said Mr Moosa

He said he raised the issue at Codesa and Working Group 1 responded by discussing it, but could not reach agreement because they needed additional expert evidence

"Unfortunately with the collapse of those talks, I think it is now much lower on the agenda of the new round of multi-party negotiations

"At Codesa the government apologised for the hurt caused by apartheid to millions of the country's citizens These included the applicants

"The oppressive laws and practices which the applicants challenged were the product of apartheid and expecting them to pay the legal costs of the State is adding insult to injury," said Mr Moosa

"A full bench of the Supreme Court, Cape Town, in 1987 ruled against a police order which banned public meetings

"The appeal by the State was purely a test case as a number of meetings had already taken place and the outcome of the appeal, 18 months later, was purely acedemic," he said

In 1988 a committee, under the chairmanship of Dr Boesak, was formed to celebrate Mr Nelson Mandela's birthday at the University of the Western Cape

Regional commissioner of police Brigadier Roy During's prohibition of the celebrations was set aside by the Supreme Court and the birthday bash went ahead Two years later the Appeal Court ruled in favour of the State

Mr Moosa said "The committee no longer exists, yet the State is claiming almost R25 000 in legal costs

"Dr Boesak offered to pay R5 000 as part payment of the amount in full settlement of the matter, but this was rejected by the Minister of Law and Order"

Mrs Rashida Parker, wife of Mr Allie Parker, the owner of Allies Printing Services, who regularly printed UDF pamphlets and posters, is being forced to pay the government R40 000 for its costs to defend her two applications for her husband's release

Mr Allie Parker was detained under the emergency regulations in 1987 and 1988

During his first application Mr Justice Rose-Innes said it would be a sad day for South Africa if his decision to free Mr Parker was reversed

"It is indeed a sad day for the country when we are forced to pay the government for robbing us of our rights and freedom," said Mr Parker

An unemployed Bonteheuwel mother, who lost her application to secure the release of her 16-year-old son who was detained under Section 29 of the Internal Security Act in 1988, has refused to pay the State's legal costs

The State plans to bill Mrs Beulah Rutledge but is waiting to hear from her lawyers what her financial status is

"I am unemployed, but if I did have a job there is no way I would pay them a cent — they can arrest me and put me in jail

"I am not prepared to pay for the pain and suffering they caused my son and my family"

Spokesman for the Department of Law and Order Captain Craig Kotze said that until the law and the legal system changed, present court rulings had to be carried out

Star 4/5/93

# Weapons Bill not tough enough – Leon

(252)

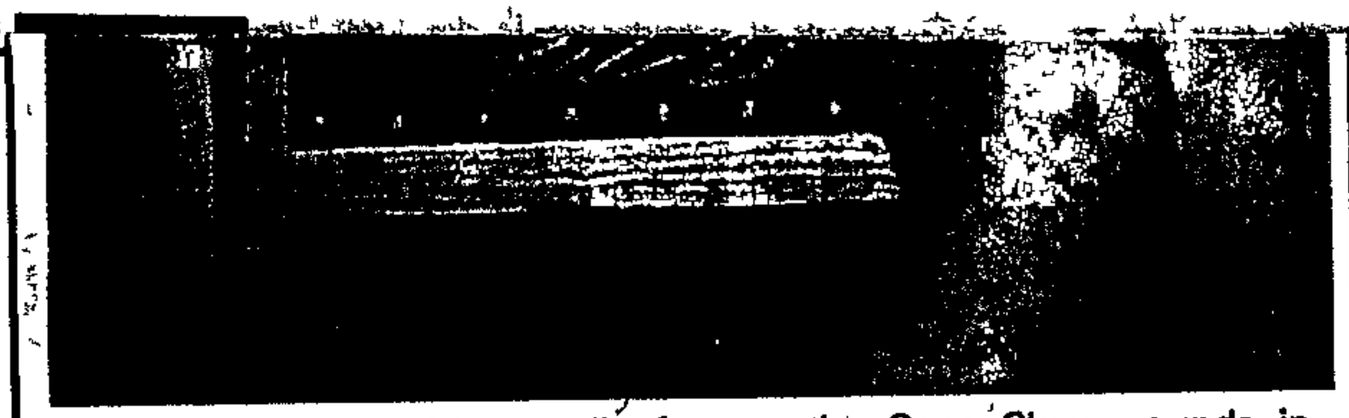
CAPE TOWN — Legislation cracking down on possession of AK-47s and other automatic weapons could hardly be more timely in view of the weekend's massacre in East London, Tony Leon (DP Houghton) said yesterday

Speaking on the Arms and Ammunition Amendment Bill, he also said the Government had to take joint action with Mozambique to stop the flow of AK-47s from across the border.

The Government's deliberate destabilisation of its neighbour in the '80s by arming Renamo was now ricocheting on South Africa with deadly vengeance The Government had a grave responsibility to address this issue, which was "partly of your making".

Leon said it had to be asked whether the new Bill went far enough and whether drastic security action should be taken to curb the "pathology of violence" that held the country in thrall

The East London massacre, and the fact that any thug or murderer could cause such destruction and mayhem, was a condemnation of the lack of progress in negotiations — Sapa



**LOVELY LISA** ... Motor rally fans at the Cape Showgrounds in Goodwood had something else to enthuse about last night when finalists in the Miss Cape Motor Show vied for the crown, won by local lovely Lisa Allen. With Lisa are second princess Maricka Jurgens (left) and third princess Annemarie Jordaan. Picture: ALAN TAYLOR

# Unanimous support for tough weapons bill

**ALL parties in parliament yesterday backed the five-year minimum jail term for the illegal possession of machineguns, grenades, limpet mines and similar weapons.**

**The unanimous support for the Arms and Ammunition Amendment Bill yesterday follows in the wake of the weekend East London Highgate Hotel attack.**

**The Deputy Minister of Law and Order, Mr Gert Myburgh, said last year 495 people were killed and 574 injured with illegal weapons.**

# Vlok looks at political releases

**THE Department of Correctional Services was reviewing all political releases that had taken place since February 2, 1990, Correctional Services Minister Mr Adriaan Vlok said yesterday.** CT 4/5/93

**Introducing debate on the Correctional Services Amendment Bill, he said that if there were other cases of incorrect releases, they would be dealt with under the re-arrest procedure proposed in the measure.**

**Existing legislation did not provide for re-incarceration of a person released in error.**

**The department's normal release policy had been free of mistakes, despite the fact it dealt with about 10 000 releases a month, he said.**

**However, after February 2 this policy had to be "interfered" with, and in this process "a few mistakes", including the premature release of bank robber Lucky Malaza, had been made, he said.** — Sapa

● See Notes in the House — Page 7

# AWB march on Pretoria

**THE AWB and two white unions will march on Pretoria's Union Buildings to protest against the unjust handing over of the country to communism, AWB leader Mr Eugene Terre'Blanche told a packed city hall last night.**

**He said the AWB was in the Cape to recruit "rebels" for a "bloody" and "ruinous" resistance war to protect the rights of Afrikaners.**

**"(President F W) De Klerk is stealing what belongs to us at the (negotiation) table."**

**Mr Terre'Blanche repeated that he would have shot Mr Chris Hani to protect his "volk".**

CT 4/5/93

**WAITING GAME** ... Teachers wait impatiently for Mr Pieter Saaiman, Minister of Education and Culture, to appear at the gates of Tuynhuys to accept memoranda from them protesting against the department's rationalisation plans. ● Report — Page 5 CT 4/5/93 Picture: BENNY GOOL

BUSINESS BRIEF
Gold (Ldn close) ... N/A

# Fleet of 251 luxury cars for VIP

a Beetle hubcap as an ash-tray. Harmse says that up to

at Diepkloof last week, of which 272 were auctioned. This year, 1 076 cars have

depoort on Tuesday morn-ings at nine.

From there they will be

# SADF man killed in scuffle

Crime Reporter

A South African Defence Force (SADF) member died in a West Rand hospital yesterday after being shot in the chest during a scuffle with rampaging youths in Mohlakeng, near Randfontein, police said.

Police spokesman Major Henriette Bester said the soldier, whose name has not yet been released, was shot trying to prevent a youth from stealing his pistol

She said he and his patrol chased a group of youths who were petrol-bombing vehicles and attacking passersby to a corner cafe, where he was shot.

Bester said about 250 youths, apparently upset that township residents had delivered to the police a suspect wanted in connection with an intimidation charge, went on the rampage on the West Rand. STAR 4/5/93

Police received reports that the youths had assaulted a woman, who had to be treated for minor injuries.

The youths set alight several vehicles in Mohlakeng.

Also on the West Rand, a couple were attacked at the entrance to the township and their car set alight.

# Union defends 5 charged with murder

The National Education, Health and Allied Workers' Union will defend five members arrested at the weekend in connection with the deaths of 24 babies during the 1990 Ga-Rankuwa Hospital strike.

The five have been charged with murder and intimidation. They will appear in court on May 28.

The court has granted each bail of R5 000 on condition they do not go near the hospital or talk to hospital employees or their relatives They also have to report weekly to the police.

A commission of inquiry found the deaths were the result of the strike — Sapa

STAR 4/5/93

# ANC, SAP in pistols row

Star 5/5/93

(252)

Two pistols found after a tavern brawl in a northern Free State township last month have become the centre of a dispute between the ANC and the SA Police, leading to the Goldstone Commission being asked to intervene.

The ANC yesterday claimed the pistols were evidence security forces in the northern Free State were aiding and abetting forces opposed to the ANC

The pistols were shown to the press in Johannesburg yesterday and were then handed over to Goldstone Commission representatives

"We have reason to believe that an attempt to murder a regional ANC leader was frustrated in Thabong, near Welkom, on April 9 On that occassion two persons were involved in a tavern fight, during which one of them lost his life," the ANC said.

During the fight, the pair were disarmed Their weapons were then handed over to the ANC, which had "strong reason" to believe they were SAP-issued.

The Goldstone Commission is to investigate the weapons' origin

Police denied the allegations, saying the pistols had been stolen from two off-duty policemen who had gone to the tavern and were assaulted.

"One of the members later died in hospital of his injuries Both members were allegedly robbed of their firearms"

Police called on the ANC to hand over the weapons because the ANC's possession of them was unlawful and it was withholding evidence. — Sapa

# ANC rejects protest Bill

RAY HARTLEY

THE ANC has rejected a proposed Bill governing mass demonstrations publicised by Goldstone commission chairman Judge Richard Goldstone last week, because it was not consulted adequately.

"The ANC believes that poor legislation is worse than no legislation at all, but that the outstanding problems with the Bill can be easily resolved," the statement said

"The ANC welcomed consultations on the previous draft, many of which were incorporated in the redrafted version. However, the commission ignored the ANC's subsequent comments The Bill is inconsistent in its approach to the right to demonstrate and is difficult to interpret It fails to establish consistent and simple procedures for demonstrations

"It imposes a wide ranging statutory civil liability on organisers of demonstrations," the ANC said

Other problems included the Bill's restriction on demonstrations near courts and Parliament

Goldstone would not comment yesterday

# Commonwealth rethinks SA role

RAY HARTLEY

THE future of the Commonwealth observer mission to SA hangs in the balance with its Durban office scheduled to close down in weeks and the strong possibility that funding for its observer force may be cut soon.

Mission head Duncan Chappell said yesterday representation had been made to the Commonwealth's London head office in an effort to change the decision to close the Durban office

Financial constraints had led the Commonwealth to rethink its role in SA

ANC president Nelson Mandela was scheduled to discuss the future of the mission with Commonwealth secretary-general Chief Emeka Anyaoku in London yesterday, he said. It is believed he urged Anyaoku to retain the mission.

ANC peace desk official Sydney Mafumadi said it would be "most unfortunate" if the mission were to close its offices with elections drawing closer and violence continuing unabated.

Chappell said Commonwealth headquarters was considering replacing observers, who were scheduled to return to their home countries in mid-May, with a smaller team of "technical assistants"

A well-placed monitoring source said it was likely that the mission's Johannesburg office would be reduced to a skeleton staff

Mafumadi said the ANC believed all international missions should remain in place

There was a strong possibility that violence would be stepped up by "spoilers" wanting to undermine future elections

Mission spokesman Colleen Lowe-Morner said yesterday the 10 observers scheduled to leave in mid-May would be replaced by "a new cast of characters" to deal with changing political circumstances in SA.

TIM COHEN reports from Cape Town that the EC has appointed an ambassador-level diplomat to oversee its observer mission which will continue to operate for at least another six months.

Former German ambassador to Addis Ababa Paul Joachim von Stulpnagel said yesterday the existing 16 mission members felt they had made a difference.

Stulpnagel said four or five of the existing observers had asked to remain in SA and the others would be replaced They would continue to operate within the guidelines set down by a UN Security Council resolution stipulating that observers should work with local organisations to encourage peace.

Stulpnagel, who met Foreign Affairs Minister Pik Botha yesterday, said the existing observers had told him that their mere presence at mass gatherings had played a positive role.

Being policemen, the observers were able to contribute expertise to multiparty discussions about peacekeeping, he said

# Bill not lucky for some

Sowetan 5/5/93

**By Ismail Lagardien**
Political Correspondent

## ■ Rightwinger, bank robber could go back inside:

LUCKY Malaza and Barend Strydom could return to jail when the Correctional Services Bill tabled in Parliament yesterday is passed — probably within weeks

Introducing the bill in Parliament yesterday, Minister of Correctional Services Mr Adrian Vlok said the Government was considering rearresting certain criminals who had been released since February 2 1990.

The bill contains what has become known as "the Lucky Malaza clause", in terms of which any person released in error could be rearrested.

Vlok said the Department of Correctional Services' early release programmes had been relatively faultless but "a few mistakes" had crept in.

Government sources said yesterday certain prisoners who were released after the Record of Understanding of September last year could be rearrested.

This could include Strydom, "especially because of his latest remarks"

Strydom has stated that he had no regrets and that he would kill again.

The Correctional Services Bill also provides for new early release programmes in terms of which alternatives could be sought for completing sentences outside prison

not aimed at generally limiting reporting in the media and are not unqualifyingly prohibitive Section 44 (1) (f) of the Correctional Services Act, 1959, which the media experienced as limiting, was already scrapped during 1992 I would like to state clearly that my Department follows an open policy and that the media is at liberty to report on any matters pertaining to Correctional Services

For the hon Member's convenience I would like to briefly elucidate the purposes of sections 44 (1) (e) and (g) respectively

Section 44 (1) (e), in the first place, is mainly aimed at the security of prisons The hon member will concede that the safe detention of prisoners is primarily in the interests of the community As sketches and photographs of prisons could be utilized to facilitate the freeing or escape of prisoners, it is therefore essential, in the interests of the community, to exercise a degree of control in this regard There is no objection to the publication of photographs for purposes of, *inter alia*, documenting the aesthetical or historical aspects of prisons and such approval is granted regularly

In the second place, section 44 (1) (e) is also, *inter alia*, aimed at protecting a prisoner and his family from adverse exposure In this regard it is important to note that the publication of photographs and sketches of prisoners is not limited within the first 30 days after conviction The same applies in respect of photographs and sketches of a prisoner or group of prisoners appearing as accused at a court building, or on premises adjacent to a court and used in relation thereto The purpose is that at this stage justice must be seen to be following its normal course

After a prisoner has been found guilty of a crime and justice is seen to have followed its normal course, the rehabilitation objective of imprisonment comes to the fore The continued publishing of photographs may be contrary to the objectives of rehabilitation and could eventually have an effect on the prisoner's reintegration when he returns to society It is also in the interests of the family of the prisoner to avoid unnecessary exposure to embarrassment which could result from the continued publication of such photographs or sketches

Under certain circumstances, requests for the publishing of photographs/sketches may be approved The following considerations will *inter alia* be applicable

— the particular prisoner must grant permission for the publishing of the photograph/sketch,

— it must have a possible crime-preventative effect, and

— it may not have the sensationalization of crime as an objective (in which case such a request will not be approved under any circumstances)

Section 44 (1) (g) is aimed at making a responsible contribution to the prevention and combating of crime by preventing the sensationalization of a prisoner's crime as well as crime in general At the same time the prisoner is prevented from gaining financially from his crime whilst he is still serving his sentence This is a responsible approach which recognizes and considers the interests of the community and its insistence that crime be combated

However, the Correctional Services Act, 1959 is being reviewed, in view of the proposed Bill of Fundamental Rights, in the spirit of changing times and in the light of international penological practices, with a view to amendments/adaptations At present certain elements of the Act are being subjected to thorough research but at this stage it is too early to indicate whether sections 44 (1) (e) and (g) of the Correctional Services Act, 1959 (Act 8 of 1959) will be amended

**Murder of Dr Richard Turner**

*8 Mr A J LEON asked the Minister of Law and Order

(1) Whether, with reference to the recent murder of Mr Chris Hani, any information has emerged on whether any specific persons and/or groups were involved in the alleged assassination of Dr Richard Turner in Durban on or about 8 January 1978, if so what information has emerged in this regard;

(2) whether any progress has been made in the investigation into the death of Dr Turner, if not, what stage has the investigation reached, if so, what progress,





(3) whether any arrests have been made in the Turner case, if not, why not, if so, what are the relevant details,

(4) whether any persons arrested or prosecuted in connection with the death of Dr Turner will be entitled to claim indemnity from prosecution in terms of the Indemnity Act, 1990 (Act No 35 of 1990), or the Further Indemnity Act, 1992 (Act No 151 of 1992), if not, why not, if so, on what grounds? B728E

†The MINISTER OF LAW AND ORDER

(1) No

(2) No, but every clue which has been received in connection with the murder is being followed up

(3) No, owing to a lack of insuffient information

(4) Section 2 of the Indemnity Act, 1990 provides that the State President may grant indemnity to any person, either unconditionally or on the conditions he deems fit, in respect of any event or category of events The provisions of this section are stated in very wide terms and it would be possible for the State President to consider any application for indemnity by any person involved in the death of Dr Turner

The Further Indemnity Act, 1992 applies to any act with a political object advised, directed, commanded, ordered or performed by such person before 12 00 on 8 October 1990. The definition of "act with a political object" includes any act or omission advised, directed, commanded, ordered or performed—

— with a view to the achievement of a political object, or

— for the promotion or combating of an object or interest of any organization institution or body of a political nature, of

— with the *bona fide* belief that such object or interest will be served, or

— with the approval or on instruction or in accordance with the policy of such organization, institution or body

The State President may thus also in terms of this Act consider any application for indemnity by any person who caused the death of Dr Turner, if his conduct falls within the ambit of an act with a political object

Mr A J LEON Mr Chairman, arising out of the hon the Minister's reply that no progress has been made in the investigation of this murder and that no arrest or prosecution has taken place, and given the fact that Dr Turner, who was a very high-profile political activist in Durban, was assassinated 14 years ago, is it not a matter of concern and disappointment to him that such a lack of progress has been experienced in this particular investigation, and are there any steps envisaged to try to bring this matter to justice once and for all?

†The MINISTER Mr Chairman, I immediately want to say this to the hon member It is not pleasant for me to know that a murder has not been solved, irrespective of whether it is a high profile person or a beggar I want to state categorically that for the SA Police the important thing is to track down the murderers of people Yes, of course 14 years have passed, but the hon member has been in the legal profession long enough to know that one does not always get hold of the guilty person This seems to be the case here

I want to assure the hon member further that intensive detective work has been done in the last while—and was done in the beginning especially, when the clues were fresh—in order to determine who the murderers of Dr Turner are, and it is with regret that I have to say that we have not yet been able to succeed in tracking down the murderers

Mr A J LEON Mr Chairman, further arising out of the hon the Minister's reply, is he aware of the fact that Dr Turner's daughter has recently been in South Africa attempting to follow up this matter and that, despite attempts to contact senior officials in the Government, including the hon the Minister's Department and that of the hon Minister of Justice, she received no co-operation whatsoever in her quest for further information on this matter?

The MINISTER. Mr Chairman, I am not aware of our receiving such a request I am not aware of a request being made in that regard to my office at all It may have been, but unfortu-

Cont'd

nately I am not aware of it If she would write me a letter I would be only too pleased to give her the necessary information that she may require

**Hani funeral: flags half-mast at embassy**

*9 Mr J H MOMBERG asked the Minister of Foreign Affairs †

(1) Whether it was decided to fly the national flag at half-mast at a South African embassy in the United States of America as a result of the recent death of Mr Chris Hani, if so, who took this decision,

(2) whether his Department reacted to this decision, if not, why not, if so, what was this reaction? B736E

†The DEPUTY MINISTER OF FOREIGN AFFAIRS

(1) Yes, by the South African Embassy to the United States of America

(2) Yes As a result of enquiries by the news media, they were informed that the Ambassador had used his own discretion

†Mr S P BARNARD Mr Chairman, arising from the hon the Deputy Minister's reply, may I ask him whether he does not consider it advisable to request the ambassador in America and the other countries in which we have embassies also to fly the flag at half-mast for the five Whites—Whites remember, do not forget that—who were shot and killed by an assassin or assassins?

†The DEPUTY MINISTER Mr Chairman, I would like to refer the hon member to the reply that the hon the State President has just given on this whole matter

†Mr S P BARNARD Mr Chairman

†The CHAIRMAN OF THE HOUSE Order! I am afraid that the time for questions on general affairs has expired [Interjections ]

*Business interrupted in accordance with Rule 180C (3) of the Standing Rules of Parliament*

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INTERPELLATION

The sign * indicates a translation The sign †, used subsequently in the same interpellation, indicates the original language

*Own Affairs*

**Vacancies in Afrikaans schools**

*1 Mr A GERBER asked the Minister of Education and Culture

(1) Whether his Department will fill vacancies in Afrikaans schools against the wishes of the parent community with pupils with other cultural, religious and mother tongue backgrounds than those traditionally shared by pupils at Afrikaans schools, if not, why not, if so, why,

(2) whether he will make a statement on the matter? B773E INT

*The DEPUTY MINISTER OF EDUCATION AND CULTURE Mr Chairman, the interpellator wants to know whether the Department of Education and Culture will fill vacant places in Afrikaans schools against the wishes of the parent community with pupils from another cultural, religious and mother-tongue background than the traditional at such schools [Interjections ] That is what the interpellator wants to know [Interjections ] I thought that some of those hon members could not read

The reply to the question is no, the department is not filling places at schools The admission policy of about 94% of our schools has been transferred to the management bodies themselves and, even at any Government school, pupils are not placed by the department but admitted by the principal When the point at issue is vacant places at schools, however, there are two realities that have to be reconciled

One reality is that in this country there are millions of people without educational facilities who cannot accept that facilities which are available and are largely under-utilised here and there remain closed to them [Interjections ] It is also a great burden to the taxpayer to provide additional facilities whereas others are under-utilised

The other reality is, however, that there is a deep-seated need among people to protect the culture, language, religion and the familiar character of their school The Government has committed itself to this right and will ensure that this right is incorporated in the charter of fundamental rights and in the constitution



Support also comes from the UN for such a standpoint On 3 February 1993 Resolution 47135 of the "Declaration on the Rights of Persons Belonging to National and Ethnic Religious and Linguistic Minorities" was accepted Article 27 was reaffirmed in particular, which reads

> In those States in which ethnic, religious and linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with other members of their group, to enjoy their own culture, to profess and practice their own religion, or to use their own language

We must be realistic, however Conditions must be of such a nature that the right to education of one's own can be exercised in a justifiable manner [Interjections ] Communities which desire it must set fair demands and accept joint responsibility for the just maintenance of them

*Mr A GERBER. Mr Chairman, the purpose of this interpellation is to try to establish for the umpteenth time what the Government means by so-called differentiated education The reply that the hon the Deputy Minister gave this afternoon did not actually provide any clarity on this question

This is one of those words again which have been created to make naive Government supporters believe that in a new dispensation they will still have group-specific education for their children The hon the State President formulated it as follows "Differentiated education based on religious and cultural values and the mother tongue, with equal governmental support, will remain a right for those who desire it " This is just about what the hon the Deputy Minister also said this afternoon The impression is therefore being created that the Government also recognises the right of the Afrikaner people to create schools of their own for their children on the basis of culture, religion and mother tongue

Apparently the hon the Deputy Minister does not know what the hon the Minister of National Education said here on 31 March He said that he advised governmental bodies, therefore also governmental bodies of half-full Afrikaner schools, to make their vacant places available to the broader community This can have only one meaning, namely that half-full schools have to be made available to children of other cultures, religions and mother tongues than the traditional at those schools This is how I interpret it The important point is that the NP itself also interprets it like this

Last week on 26 April the hon member for East London North also interpreted it like this in this House After I had pointed out the meaning to the hon the Minister of his advice to the management bodies, that hon member shouted, "Hear, hear!" I then said to him, "this means pupils coming from other cultures, languages and religions Does that hon member want to shout 'Hear, hear!' to that too?" To that the hon member replied, "Hear, hear!" I accept that that hon member is also speaking on behalf of the NP which applauds the fact that pupils from other cultures are admitted to Afrikaner schools The NP welcomes the fact that pupils whose mother tongue is not Afrikaans are admitted to Afrikaner schools What is worse, in the words of the hon member for East London North, the NP shouts "Hear, hear" because pupils from strange religions are admitted to Afrikaner schools

*Mr J H MOMBERG Hear, hear! [Interjections ]

*Mr A GERBER There they are shouting it again [Interjections ] This is the differentiated education with which the Government is trying to pacify the unruly element in its own ranks This afternoon I ask the hon the Deputy Minister across the floor of this House whether that is the type of differentiated education that the Government wants to offer the Afrikaners of our country If that is not so, I ask him to repudiate the hon member for East London North [Time expired ]

*Mr J A JORDAAN Mr Chairman, as I listened to these two ex-theological students, it brought to mind that beautiful story about the theological student from Tukkies who took a girl to the Hartebeespoort Dam and, after they had cuddled a bit, she said he could go a bit further Then he drove to Brits [Interjections ]

When I listen to this interpellation, I get the idea that one has literally already reached Brits and the other has already reached there figuratively at least

The crux of this interpellation firstly is the issue of the vacant places We cannot afford to have vacant places in our schools [Interjections ]

Cont-ND

Star 5/5/93

# SA's progress remarkable – FW

De Klerk . clear there would be many difficulties.

Political Staff

CAPE TOWN — It was essential to reach all South Africans during the coming months to explain to them the significance of the coming elections, President F W de Klerk said in Cape Town last night

Speaking at an International Public Relations Association dinner, he said it would also be necessary to create the circumstances in which they would be able to take part freely and meaningfully in the process.

The dramatic change in direction in South Africa just more than three years ago had turned out to be "a long-distance marathon towards our goal of a new and democratic South Africa".

There were no illusions at the outset that it would be an easy race Given the diametrically opposed ideologies at the outset, the deep-seated animosities and suspicions, and the legacies of prejudice, fear and envy in the society, it was clear there would be many difficulties.

But remarkable progress had been made, De Klerk said.

Nearly all the major parties in South Africa had been drawn into negotiations, and substantial agreement had been reached on important departure points and goals.

# Apartheid victims 'will not vote NP'

Star 5/5/93

People who had been treated as second-class citizens all their lives were not going to vote for the National Party, Mohammed Valli Moosa of the ANC's negotiating team warned yesterday in an address to the Johannesburg Municipal Combined Employees' Union at the City Hall

He told about 300 members of the largely coloured and Indian union that the National Party had been claiming the support of the majority of coloured and Indian people.

Also addressing the meeting, the head of the ANC's local government unit, Thozamile Botha, said interim local councils to replace existing councils in black and white areas should be in place by July.

These interim councils would be responsible for the rationalisation of services and the unifying of the budgets of the various local authorities in order to address the service crisis facing the country. — Staff Reporter.

# Mdlalose accusations referred to Goldstone

Star 5/5/93

By Helen Grange

Accusations made last month by IFP chairman Dr Frank Mdlalose that the Government was involved in a smear campaign against the IFP will be referred to the Goldstone Commission for possible investigation.

A statement by the National Peace Committee (NPC), detailing decisions made at Monday night's NPC executive meeting, said Mdlalose had raised issues relating to criminal action which fell within the scope of the Goldstone Commission and could not be dealt with by the complaints investigating committee.

In his address last Monday to the Negotiating Council, Mdlalose said Government intelligence agencies were involved in a smear campaign against the IFP and were "involved in providing support to those seeking our demise"

He also suggested that the police were deliberately neglecting to investigate perpetrators of violence against the IFP.

The NPC executive on Monday distanced itself from recent inflammatory statements by Winnie Mandela and ANC Youth League president Peter Mokaba

Speaking at a press conference yesterday, NPC chairman John Hall said the NPC was very concerned with violations of the Peace Accord, which needed strengthening to further bind signatories to its terms.

The option of affording the accord legislative power to punish transgressors was, however, not being considered.

Hall said the greatest obstacles to the Peace Accord's success was the absence of a new political dispensation and the crippling socio-economic situation on the ground.

Action plans would, however, be launched to address immediate threats to peace in the form of mass action, political intolerance and broken-down relations between political parties

# IFP plans to force talks on violence

Star 5/5/93

DURBAN — The Inkatha Freedom Party is planning a programme of mass demonstrations to demand that violence tops the agenda at multiparty negotiations.

Inkatha spokesman Ed Tillet said yesterday that IFP supporters would march and picket in the streets from May 15

The first march would take place in Durban.

"The IFP's view is that violence has reached such a level that it should be tabled at the top of the agenda at the multiparty forum," he said.

His statement echoed that by IFP president Mangosuthu Buthelezi on Monday.

IFP national chairman Dr Frank Mdlalose attempted to read a statement on violence to last week's negotiating council, but it was referred to a subcomittee on violence.

The memorandum calls for the immediate disbanding of all private armies — Sapa

# Sebokeng massacre suspect released

Star 5/5/93

By Melody McDougall
Vereeniging Bureau

Charges against the only remaining suspect being held in connection with the Sebokeng massacre last month were withdrawn in the Vanderbijlpark Magistrates Court yesterday due to lack of evidence. (252)

But police said they were investigating new leads into the massacre.

At least 21 people died and 21 were wounded when gunmen went on a shooting spree on April 18, the eve of assassinated South African Communist Party leader Chris Hani's funeral.

Police arrested seven Soweto men on Tuesday last week in what they called a major breakthrough

However, six of the suspects were released the following day after police said there was insufficient evidence to charge the men at that stage.

Comfort Ngema (23) of Mofolo village appeared in the Vanderbijlpark Magistrate's Court last Thursday. No charges were put to him and no evidence was led during the brief hearing.

He was remanded until yesterday, when he was informed by magistrate Mr A P Marais that the case against him had been withdrawn.

Vaal Triangle police spokesman Major Piet van Deventer said there was insufficint evidence against Ngema to proceed with the case.

"New information and leads in connection with the massacre are presently being investigated by detectives despite the fact that the seven suspects initially arrested have all been released," he said.

Star 5/5/93

# Goldstone's draft Bill on public gatherings rejected

By Charmeela Bhagowat (252)

The ANC has rejected the Goldstone Commission draft Bill on regulating public gatherings, submitted to Parliament last week

And Lawyers for Human Rights said yesterday it had "some concerns" with sections of the Bill regarding the freedom of people to associate and gather. A spokesman said the organisation had examined the Bill and it would comment further later

The Bill, handed to President F W de Klerk on Thursday, emphasised the civil liability of groups organising public gatherings and outlined suggested procedures for planning such gatherings

Offering an interpretation of the Bill last week, Mr Justice Richard Goldstone said conveners would no longer have to seek permission for public gatherings or demonstrations Instead they would be required only to give notice to the necessary authorities — a major break with current law.

However, the ANC said in a statement that the Bill was "inconsistent in its approach to the right to demonstrate" and was difficult to interpret.

The organisation said the Bill failed to establish consistent simple procedures for demonstrations and imposed wide ranging civil liabilities on demonstration organisers

It also did not provide simple and cheap appeal procedure against police and public authority decisions and severely restricted the right to demonstrate near courts, Parliament and the Union Buildings

Another criticism the ANC levelled against the Bill was that it allowed town clerks to "unilaterally restrict the right to demonstrate"

# Assassin could seek indemnity

THE assassins of Natal academic Dr Rick Turner could be considered for indemnity if the killing had a political motive as defined by law, the Minister of Law and Order, Mr Hernus Kriel, said yesterday. (252)

Replying to Mr Tony Leon (DP, Houghton), he said no progress had been made with the investigation into Dr Turner's murder 15 years ago.

Every clue received was being followed up.

5/5/93

# Education project to train teachers

B/DAY 7/5/93

ALAN FINE

THE new ORT Science and Technology Education Project (Ort-Step) Institute reflected a vision which "could propel our people to great heights", ANC secretary-general Cyril Ramaphosa said yesterday.

Ramaphosa, who has been involved with the worldwide Jewish service organisation since its Swedish affiliate offered assistance in mine safety to the NUM in 1988, was speaking at the official opening of the institute at Halfway House to about 100 businessmen, educationists and diplomats

Its purpose is to train teachers to impart science and technology skills and knowledge. The project, with a R3m annual budget, is being sponsored mainly by donations from foreign embassies and local private sector foundations.

The gathering was addressed also by ORT-SA honorary life-president Judge Richard Goldstone, who said the world was waiting to assist SA, and the country had to put itself into a position where it could accept that assistance. Prof Louise Tager of the Law Review Project is the chairman of the board of the project

Project executive director Eli Eisenberg, an Israeli-born scientist and educationist, explained the project would provide for "exponential growth" in training as participants would themselves be trained to train other teachers.

# Judge gives go-ahead on lower fees

Own Correspondent

MARITZBURG — Attorneys are by law entitled to charge lower conveyancing fees than those prescribed, a Supreme Court judge found yesterday in what is regarded as a landmark judgment.

In a reserved judgment, Judge McLaren ruled in favour of Durban firm Shepstone & Wylie, who challenged a refusal by the Natal Law Society to allow them to charge a lower fee for certain conveyancing work than the fees fixed in terms of the Deeds Registries Act.

In his judgment McLaren found that the relevant legislation and public policy did not preclude practitioners from charging less than the tariff.

The judge said in his view the legislation, if correctly interpreted, except where it expressly provided otherwise, did not prescribe minimum fees

In the light of this finding he was satisfied that the Natal Law Society Council was mistaken in its interpretation of the tariff, the judge said.

Considering the question of public policy, McLaren said having considered everything that had been said, he failed to see how an agreement that a conveyancer would charge a client less than the assumed minimum could offend against public policy. B/DAY 7/5/93.

# ACT

**To provide for the admissibility in the Republic of documentary evidence emanating from certain countries in Africa; and for matters connected therewith.**

*(Afrikaans text signed by the State President )*
*(Assented to 29 April 1993.)*

BE IT ENACTED by the State President and the Parliament of the Republic of South Africa, as follows.—

**Definitions**

1. In this Act, unless the context otherwise indicates—
   (i) "designated country" means a country in Africa designated by the Minister in terms of section 4*(a)*, (i)
   (ii) "document" includes any affidavit, certificate, record, photograph, book, map, plan, drawing and any documentary recording or transcribed computer printout produced by any mechanical or electronic device and any device by means of which information is recorded or stored; (ii)
   (iii) "Minister" means the Minister of Justice (iii)

**Documents emanating from designated countries are deemed to have their origin in Republic**

2. Notwithstanding anything to the contrary in any Rules of Court made or in force under section 6 of the Rules Board for Courts of Law Act, 1985 (Act No. 107 of 1985), or in any other law, but subject to the provisions of section 3, any document purporting to have been prepared, attested, certified, compiled or executed in a designated country shall, for the purposes of its admissibility as evidence in any civil or criminal proceedings in the Republic, be deemed to have been prepared, attested, certified, compiled or executed in the Republic

**Conditions for admissibility in Republic of certain foreign documents**

3. If under any law a document is admissible in evidence in civil or criminal proceedings if it has been prepared, attested, certified, compiled or executed by a particular institution or by a person holding a particular office, possessing a particular qualification, performing a particular function or engaged in a particular activity, a similar document emanating from a designated country shall, for the purposes of such law and subject to the provisions of section 4, be admissible only if it appears on the face thereof to have been prepared, attested, certified, compiled or executed by an institution in the designated country in question or by a person in such country holding an office, possessing a qualification, performing a function or engaged in an activity equivalent to the corresponding institution in the Republic or to the office, qualification, function or activity of the corresponding person in the Republic, contemplated in such law

**Minister may designate certain countries and declare institutions, offices, qualifications, functions or activities in designated country as equivalent to institutions, offices, qualifications, functions or activities in Republic**

4. The Minister may, for the purposes of this Act, by notice in the *Gazette*—

*(a)* designate any country in Africa; and

*(b)* declare that a particular institution, office, qualification, function or activity in a designated country is equivalent to an institution, office, qualification, function or activity in the Republic mentioned in such notice

5

**Short title and commencement**

**5.** This Act shall be called the Documentary Evidence from Countries in Africa Act, 1993

# Lawyers fear Hani accuser may be dead

C/Press 9/5/93

By MONWABISI NOMADOLO

LAWYERS representing the "Mqanqeni trio" have withdrawn their services as they have not heard from their clients – who are feared no longer alive

The trio escaped last month from Diepkloof Prison under mysterious circumstances after one of them, Simphiwe Solomon Mqanqeni, made the sensational claim that the late Chris Hani and ANC's Tokyo Sexwale masterminded armed robberies.

Defence lawyer Tiego Moseneke told City Press at the Rand Supreme Court on Monday they had no option but to withdraw from the case as they did "not have proper instruction" from their clients

Simphiwe Solomon Mqanqeni, Daniel Motaung and Phuthumile "T-man" William Makhosi were facing charges of robbery, murder, attempted murder, illegal possession of firearms and ammunition

The three escaped from Diepkloof Prison under mysterious circumstances on March 26 after Mqanqeni made claims that the late Chris Hani and the PWV ANC's chairman, Tokyo Sexwale, masterminded robberies that netted almost R1-million

The missing three have not been re-arrested or seen since their mysterious escape from the prison fortress – amid fears that they might be dead.

Moseneke said they were "greatly concerned about their safety" There must be a full investigation by police in conjunction with the defence lawyers, he said

A relative of Mqanqeni, S'bongile Tshongweni of Thokoza, told City Press that Mqanqeni complained to her a number of times while in prison that he was being forced to make a confession implicating the late Hani and Sexwale

After he had made his claims he escaped that night

Law and Order Minister Hernus Kriel labelled MK as a bunch of criminals two days later in parliament

Police spokesman Col AC Dyke said police have done everything they can to search for the missing men – but without success However, when asked why police had not yet visited the escapees' families, Dyke said this was not necessary as "police had their own way of investigating"

# Keeping tabs on the news

Press 9/5/93

## Experts happy with Hani probe

SA POLICE investigations into the assassination of SACP general secretary Chris Hani have been conducted "with integrity and in a thorough and professional manner", according to international experts who have been overseeing the investigation

Germany's Dr Ralf Kruger and Britain's Commander George Churchill-Coleman and Detective Inspector Michael Jones said they were given full access to all information and evidence relating to the SAP investigation, National Peace Secretariat chairman Dr Antonie Gildenhuys said in a statement yesterday (252)

Kruger had completed his task and would be leaving SA at the weekend, while the Britons would remain to attend to a few outstanding matters, Gildenhuys said

The three international experts had reported on the investigation at a meeting on Friday chaired by Gildenhuys and attended by Witwatersrand A-G Klaus von Lieres und Wilkau and representatives of the SAP and ANC

# Journo faces threats after act of mercy

City Press 9/5/93

By BERENG MTIMKULU

THREE Sebokeng youths tried to "sentence" a man to death at a kangaroo court under the ANC banner – but none of them even knew who the local ANC leaders were

The youths – known as ANC members – were part of a group of youths who two weeks ago were persuaded not to kill local resident Phehello Mosala. They are now said to have gone into hiding

(252)

This emerged after *Vaal Vision* journalist Peter Mabuya notified the Vaal ANC branch of a simmering plot to kill him He had initiated a move which led to the saving of Mosala's life at a kangaroo court held at a Sebokeng high school

Mosala had been accused of being an Inkatha supporter and for being responsible for the massacre of 19 Sebokeng Zone 13 residents three weeks ago

As a result of last week's City Press article headlined "Vaal men running for their lives", Mabuya this week said he became worried as word spread that he was a police agent, following his intervention in the Mosala matter

An enraged Mabuya said "I didn't want to wait for the innocent man to be killed I'm not that kind of newsman"

He approached the ANC and SACP who investigated and apologised

# A law in need of review

**BRIAN CURRIN says the detention of right-wingers in connection with the killing of Chris Hani highlights shortcomings in our law**

S/Times 9/5/93

WITH the recent detention of Clive Derby-Lewis, his wife and other right-wingers suspected of involvement in the Chris Hani assassination, the provisions of the 1982 Internal Security Act and, in particular, those relating to detention without trial are once again the focus of public attention

Thousands of people were detained without trial during the last decade, and this violation of fundamental human rights was often on the receiving end of intensive lobbying and litigation by human rights lawyers

About a year after South Africa entered its new era under President de Klerk, the Minister of Justice spearheaded a number of amendments to the Internal Security Act, some aimed at detention without trial

Despite criticism from human rights activists, the impression was created that our detention laws were now in line with international norms and standards. That, of course, is totally untrue

Although the notorious Section 29 was amended and "improved", other detention provisions remain unchanged Section 31, for example, still provides for detention without trial of an individual who is likely to give material evidence for the state in any criminal proceedings which may serve as a basis for an offence, or any individual who may be tampered with or intimidated or may abscond, or wherever the Minister deems it in the interests of such person or the administration of justice

The person arrested will be imprisoned without trial until criminal proceedings are concluded No time limits are specified for this detention. Section 31 also denies any court jurisdiction to order the release of the detainee. This section begs to be abused.

If a court orders the release of the Section 29 detainee, how easy it would be for the state to convert a Section 29 detention to a Section 31 detention by claiming that the detainee is likely to be a state witness or that he/she may be tampered with, intimidated or may abscond.

But what about the enlightened amendments to the notorious Section 29?

Although there are improvements, the amended section does have several serious flaws For example, a commissioned officer above the rank of Lieutenant Colonel is responsible for notifying a relative of the detainee of his/her arrest and the place of detention. However, the relative need not be notified if the Commissioner has reason to believe it will hamper the police investigation

Surely, parents, wives and husbands have a right to know when a loved one has been arrested A competent police investigation cannot possibly be hampered by such knowledge

Furthermore, the detainee has no automatic right to a legal visit during the initial 10-day period.

The right to consult a lawyer is limited for the purpose of preparing opposition to an application by the state extending the period of detention A legal representative can be notified only when the commissioned officer files an application with a judge in chambers to extend the initial 10-day detention It is not clear whether the officer is obliged to inform the detainee that there is a right to legal representation

Finally, the procedures involved in extending the initial 10-day detention period present additional problems

An application by the state to extend the detention period must be made to a judge in chambers at least 48 hours before the 10-day period expires. One would presume that the detainee would also be given 48 hours' notice However, the law states that the detainee need only be notified about the application before it is heard

Such short notice would certainly hinder the detainee and his/her lawyer in preparation By tilting the playing fields of justice so unfairly, the Act treats with contempt the concept of fundamental fairness and due process of law

Besides the spate of recent detentions of anti-reform right-wingers, arrests and detentions in terms of the Internal Security Act have continued during the past three years, albeit far fewer than before Negotiations and related political events have overshadowed these violations of due process

It's about time that the Minister of Justice took the initiative and made some contribution towards promoting a human rights culture in South Africa A good starting point would be a serious revision of the Internal Security Act which should, in our view, include the total scrapping of detention without trial.

□ *Brian Currin is national director of Lawyers for Human Rights*

S/Times 9/5/93

# Hani cash link with neo-nazis

Sunday Times Reporter

(252)

AN international investigation into the murder of SA Communist Party leader Chris Hani has uncovered evidence indicating that neo-nazi organisations outside the country are providing financial backing for right-wing groups inside South Africa

The investigation, spanning three continents, is "slowly uncovering" what one investigator has called a "well-funded neo-nazi network"

A source close to the investigation, which is being conducted parallel to the SA Police's probe, said this week there was growing evidence that funding for some far-right groups was being funnelled into South Africa through a well-established international conduit

There is also growing evidence that those involved in this network could include both serving and former members of the security forces in at least two countries, the United Kingdom and Zimbabwe

A source close to the probe said it appeared that most of the cash for SA right-wing organisations was coming from American donors and being channelled to SA through European countries, notably Germany

Right-wing groups under scrutiny include the Western Goals Institute, based in London, the British Conservative Party's Monday Club, the French National Front and the German neo-nazi movement

Leading Conservative Party member Clive Derby-Lewis, who is being held in connection with Mr Hani's death, is president of the Western Goals Institute

over Newlands cricket ground. FULL REPORT PAGE 12 Picture: JACK LESTRADE

S/Times 9/5/93

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Leading Conservative Party member Clive Derby-Lewis, who is being held in connection with Mr Hani's death, is president of the Western Goals Institute

# New courts set to cut divorce costs

Star 10/5/93

(252)

By Chris Whitfield
Political Correspondent

CAPE TOWN — Family courts which should sharply reduce the cost of getting divorced are proposed in new legislation tabled in Parliament.

The Magistrates' Courts Amendment Bill envisages the creation of civil divisional courts and family courts as part of a restructuring of the lower court system

It will also scrap anachronistic legislation providing for separate divorce courts for blacks.

In a press release Justice Minister Kobie Coetsee said the new family courts would "result in substantially lower legal costs" in cases which at present had to be heard in the Supreme Court

It would also save time and increase accessibility to the lower civil courts for the public, he said.

The family court would "generally hear divorce matters" unless it was of the opinion that they should go to the Supreme Court They would be served by "family magistrates"

Coetsee stressed that the "jurisdiction of the Supreme Court, unless where explicitly indicated, is not affected by the provisions of this Bill".

## Civil matters

The Bill also provides for the abolition of separate divorce courts for blacks, established under the Black Administration Act of 1927 and a 1929 amendment

The new civil divisional courts would "generally hear all civil matters except for matters pertaining to the marital status of a person or to testamentary documents", said Coetsee.

These courts would embrace a number of magisterial districts and be served by senior civil magistrates.

The exisiting criminal district and regional courts and civil district courts would remain as part of the system.

Coetsee said the Bill, read in conjunction with the Magistrates' Bill tabled two weeks ago, "will further guarantee an independent and efficient lower court Bench".

The Bill also provides for the "participation of the legal professions in the appointment of regional, senior civil and family magistrates, by providing for their representation in the examining bodies of candidates for these posts," he said

# No more suspects in Hani murder probe

(252)

ADRIAN HADLAND

PRETORIA — There was little evidence to suggest a "wider conspiracy" of right-wingers involved in the assassination of former SACP leader Chris Hani, Witwatersrand Attorney-General Klaus von Lieres und Wilkau said yesterday

This follows the first appearance in court on Friday of a third suspect Clive Derby-Lewis His wife Gaye and Polish immigrant Janusz Walus have already been charged with Hani's murder

It seemed unlikely from the evidence that more people would be charged with the murder and the plan to assassinate other political leaders, Von Lieres said This personal judgment was based on the information made available to him

Police lawyers aired suspicions about a wider conspiracy during last month's application for the extension of Clive Derby-Lewis's incarceration. It was on this basis that his period of detention was extended.

Von Lieres said it was possible a further adjournment would be sought on Wednesday when the three next appear in court, to allow him to consider whether to confirm the charges laid by police against the Derby-Lewis couple B/DAY 10/5/93.

"It is highly abnormal to bring charges at such short notice I cannot allow myself to be pressured and will not make a decision until I have studied all the dockets"

Only one bail application, for Clive Derby-Lewis, had been filed and this was being considered, Von Lieres said

# Cape Bar Council elected

CT 11/8/93

Staff Reporter

FOURTEEN city advocates were recently elected members of an enlarged and more representative Cape Bar Council.

(252)

Five advocates, Mrs J H M Traverso, SC, Mr B M Griesel, Mr W R E Duminy, Mr Sven Olivier and Ms Barbara Gassner, assistant honorary secretary, are new members of the Bar while Mr D van Reenen, SC, has been elected chairman, the Cape Bar Council announced

Other members are Mr Peter Hodes, SC, Mr A P Blignault, SC, Mr Leon Kuschke, SC, Mr Gerald Josman, Mr Gerhard de Kock, Mr I J Muller, Mr Murray van Heerden and Mr M A Albertus, honorary secretary

The enlarged Bar Council followed an amendment to its constitution to make it more representative of its 230 members

POLITICS

# DP's Bill of Rights

(252) ARG 11/5/93

## Commitment to equality and rejection of racial discrimination

TOS WENTZEL and MICHAEL MORRIS of The Argus Political Staff report.

A COMMITMENT to equality and the rejection of discrimination, especially racial discrimination, are the cornerstones of a draft Bill of Rights issued by the Democratic Party today.

One of its key features is mechanisms to enforce legal rights, according to Mr Tony Leon MP, chairman of the drafting committee.

Without such effective measures legal rights would become little more than moral claims, readily ignored when the forces of government found it convenient to do so

The Bill also recognises spheres of individual privacy without allowing attempts to privatise apartheid, confining immunity "to decisions made in the exercise of the kind of private choice necessary to preserve personal autonomy".

The party is also in favour of giving the Bill special protection against easy amendment or encroachment

It wants a new constitution to provide for super-majorities to protect it against interference by a simple parliamentary majority

Apart from the provision on equality the Bill also provides for other basic rights including the rights to life, dignity, liberty, conscience and religion, free speech and thought, freedom of unarmed assembly, freedom of association, citizenship and voting rights

While recognising the right to life as "fundamental", the DP's Bill does not express itself for or against capital punishment, but provides for

**CHAIRMAN:** Mr Tony Leon

parliament being able to legislate on the issue "and it will be for the court to determine whether such laws comply with, or infringe, this Bill"

The Bill also considers the legality of abortion "to be the province of the courts as the final determinator".

Among the rights recognised in the case of people who have been arrested or detained is compensation in the case of unlawful arrest or detention.

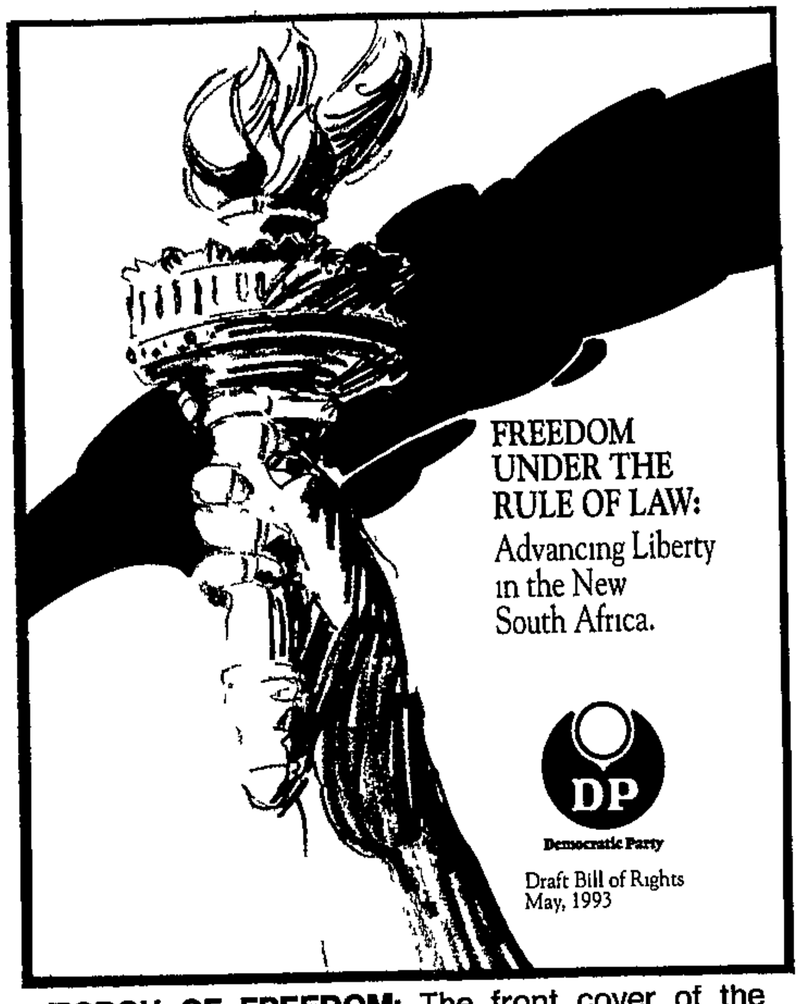
The Bill also recognises entitlement to the essentials of life including food and water, shelter, health care, education and a clean and healthy environment

Subject to the clause on equality, rights to language and culture are recognised.

The suspension of rights during a state of emergency under an Act of parliament are allowed only under exceptional circumstances

Among these are that a state of emergency should not last for more than three months and that it has to be ratified and renewed by at least two-thirds of MPs

Various rights are laid down for detainees during a state of emergency including legal representation and access to a court




**TORCH OF FREEDOM:** The front cover of the DP's draft Bill of Rights.

The Bill recognises the principle of affirmative action It states that differentiation should be presumed unjustified unless it was part of a rational programme intended to remedy substantial inequality

The Bill also seeks to guarantee "the freedom and independence of learning" as a vital element in the achievement and practice of democracy, placing institutions of higher learning, such as universities, "beyond interference"

The DP's document provides for the right of everyone to a lawful, reasonable and procedurally fair decision on matters pertaining to government, and the right to be given reasons for government action.

This provision is intended to nurture accountability and good government.

On the right to access to information as fundamental, the Bill states the broad principle, "and, again, leaves further development to the courts"

Government would have to demonstrate that non-disclosure of information "was consonant with the requirements of an open, democratic society"

The Bill provides that any derogation of rights is only permissible if the courts are satisfied that this is "demonstrably necessary in a free, open and democratic society"

However, the Bill provides that certain key rights may not be limited at all

"Our Bill," the DP says, "takes the view that policy formulation — from the detailed provision of health services to the allocation of houses — is the preserve of parliament, not the constitution.

"We hope the governments — and their policies — will change to meet changing circumstances. But becauses the promises of a Bill of Rights could be empty, cruel words echoing in a wasteland of deprivation and denial, we provide for a standard of justification which empowers the citizen to obtain from government the entitlements to the means of survival

"This Bill does not, therefore, provide a laundry list offering the panoply of human happiness or perfection

"It demands of government rational, honest justifications for policy decisions providing such entitments.

"'Rationality' or 'reasonableness' are therefore the standards of justification provided for in this Bill"

NEWS

# Boipatong murder charges dropped

Star 11/5/93

By Mckeed Kotlolo
Pretoria Bureau

252

Murder charges were yesterday withdrawn in the Delmas Circuit Court against a further 15 hostel dwellers accused of taking part in the massacre of at least 45 people in the Vaal Triangle township of Boipatong last year.

The remaining 32 pleaded not guilty to 45 counts of murder, attempted murder and malicious damage in connection with the attack on June 17.

Yesterday's withdrawal of charges against the 15 brought to 42 the number of those freed since the resumption of the trial in Delmas early last month

No reasons for the withdrawal were given in court

Shortly afterwards, the four defence advocates stepped down from the case due to their clients' inability to pay legal costs

However, Victor Botha, A J Swart, J A C van Eck and R Strydom agreed to serve as pro Deo lawyers and continue with the case

## Waited

Police fingerprint expert Sergeant Gordon Gregory Morison testified he had difficulty getting to the scene on the night of the massacre. When he did, he found onlookers had interfered with evidence.

Morison said he and a colleague drove to Unipark Garage outside Boipatong and waited for other SAP and SADF members as instructed

They used Casspirs and Buffels to enter the area at about midnight

He said when they arrived they found that corpses had been moved and surrounding objects had been handled, making it difficult to take fingerprints.

He also said some residents were not prepared to co-operate with the police.

Asked by Botha how they had located the bodies at that time of night, Morison said they received information from members of the Internal Stability Unit.

He said that while they were investigating, they received reports of more victims but could not go to the areas because groups in the streets had become aggressive.

"At one stage we were fired at and were forced to leave the area. But we returned in the morning to continue the investigations."

He said he personally found a used AK-47 bullet near one house.

Asked about the alleged police involvement in the attack, Morison said he had read about it later in the press.

The case continues today.

# DP unveils its 'libertarian' Bill of Rights

B/DAY 12/5/93

TIM COHEN

CAPE TOWN — The DP yesterday unveiled a "truly libertarian" Bill of Rights, which includes measures to give constitutional effect to socioeconomic rights

DP MP and drafting committee chairman Tony Leon described the proposal — no mere "laundry list" of specific provisions — as a radical departure from traditional Bills of Rights

A key difference is that it does not propose that constitutional issues be decided in the first instance by a special constitutional court

The proposed Bill has provisions regarding equality and the outlawing of "unjustified differentiation" — differing from the ANC's and government's proposals

It contains a provision not included in any other Bill of Rights dealing with "second generation rights", which proposes a mechanism to make "essentials of life" justiciable The article provides that every citizen shall be entitled to food and water necessary for survival, shelter, basic health care and basic education. Government would decide on how to realise these entitlements, but should its decisions not be reasonable, practicable and affordable, these would be justiciable.

Leon said the effect of the provision would be that the courts could review policy choices by legislators in this limited category, and on application, issue directives insisting that government attend to the issues (252)

While second generation rights are normally regarded as unenforceable and thus not justiciable, Leon said their inclusion was necessary because otherwise the Bill would be "empty, cruel words echoing in a wasteland of deprivation and denial"

The Bill provides for an array of enforcement mechanisms, including provisions to secure information from the state, rights to administrative justice and easy

☐ To Page 2

## Bill of Rights

(252)

☐ From Page 1

procedure. B/DAY 12/5/93

It includes articles on the right to equality, which contains a provision protecting but limiting "private choice", the right to life, liberty, privacy and property. The right to property includes authorisation for the state to expropriate property subject to "proper payment of equitable compensation" The right to life leaves the question of abortion and the death penalty to Parliament to decide in the first instance.

Leon said a Bill of Rights alone could never solve all of a country's problems He quoted US judge Learned Hand as saying: "Liberty lies in the hearts and minds of men and women — and when it dies there, no constitution, court of law or Bill of Rights can save it."

# DP unveils draft Bill of Rights

Star 12/5/93

By Chris Whitfield
Political Staff

CAPE TOWN — The Democratic Party yesterday unveiled its draft Bill of Rights which included provision for affirmative action — but with strong protection for individual rights.

(262)

The DP believes its draft straddles an emphasis on equality in the ANC's version and on individual rights in the National Party's charter.

The Bill's clause on equality would outlaw discrimination on the basis of "race, ethnic origin, colour, gender, sexual orientation, age, disability, religion, creed or conscience".

But it acknowledges the need for affirmative action programmes to undo existing inequalities, saying "Differentiation shall be presumed unjustified unless it is part of a rational programme intended to remedy substantial inequality."

The document recognises that there exists what its explanatory notes describe as a "sphere of privacy" in which decisions to differentiate need not be justified.

It entrenches freedom of conscience and religion, saying the State "shall not favour one religion over another". Freedom of the press and of unarmed and peaceful assembly are also protected.

Its clause on "right to life" does not express itself for or against capital punishment. But, under the "right to liberty", it prohibits "cruel, inhuman or degrading treatment or punishment" of persons. It leaves the decision on the legality of abortion to the courts.

tal system is protected against perverse verdicts, reports **Etienne Mureinik**

Star 12/5/93

# ies and justice in a new SA

(252)

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and both the sexes.

The justice meted out in our courts might, therefore, be more democratic than it is now Unfortunately, however, it would certainly be less just

A jury is peculiarly vulnerable to the influence of its prejudices

Juries which have heard evidence suggesting that the accused has a criminal history, or even just a history of which the jury disapproves (and it is often impossible to keep such evidence out of the proceedings), display an irrational tendency to convict, irrespective of the cogency of the evidence proving the crime actually charged

Studies show, moreover, that juries often fail entirely to understand the directions that judges give them on the law and the evidence

Even worse, juries, unlike judges, do not give reasons for their decisions That makes it easy for a jury to reach an arbitrary verdict, and to conceal the prejudices which led it there

Whatever deficiencies judges may have, the duty to supply reasons compels them conscientiously to review the evidence and fully to disclose the case in support of a conviction

They have to justify the power that they exercise over the accused And if the justification is inadequate, the decision can be taken on appeal, something which it is very difficult to do without reasons for decision

A return to jury trial, therefore, would be a distinct step backward for justice.

But the opportunity which jury trial offers immediately to diversify the racial and sexual composition of those who administer justice has given it an artificial popularity, one which the powerful arguments against the jury system have until now done little to shake

Fortunately, however, the debate has now been taken helpfully forward by Professor Yvonne Mokgoro, of the University of the Western Cape.

In an important presentation to a recent conference hosted by the ANC's Constitutional Committee and the UWC's Community Law Centre, she drew attention to the virtues of some of the Continental systems

Under those systems, judges and jurors sit together as a composite court. The jurors often outnumber the judges, and often enjoy a potentially decisive role But because the judges deliberate with the jurors, they can explain the law and analyse the evidence fully for the jurors The jurors can ask, as often as they need, for fuller explanation

They are not left on their own to apply a subtle and cryptic direction handed down to them from the bench. They deliberate under the constant guidance of the judges

Most important of all, the presence on the composite court of judges makes it possible to expect of the court a reasoned decision

All these features are safeguards, unknown to the Anglo-American jury system, against perverse verdicts

The composite court bears some resemblance to our own system of assessors The great difference between the two is that the Continental jurors, like their Anglo-American counterparts, are chosen by lot, not by the judge

That makes them independent of the judge, and gives them the capacity to check the power of the judge South African assessors, in contrast, are chosen by the judge It is no accident that they seldom disagree with the judge

The composite court, therefore, has all the advantages of the Anglo-American jury, and few of the disadvantages. It would give ordinary citizens the opportunity to bring their experience to bear in judging the behaviour of the accused It offers an opportunity to diversify the race and gender profile of those who wield justice

It supplies an important check to the power of judges But it is not nearly so given to capricious justice as is the Anglo-American jury

In the United States, the jury system enjoys the protection of the Constitution That tends to put it above thoroughgoing criticism In England the reputation of jury trial rests on a handful of celebrated cases in which juries acquitted famous political and religious dissidents, who were being victimised with political prosecutions

The charisma of those few cases has always outshone the thousands of less glamorous cases in which juries convict without convincing evidence

In South Africa, the jury has until now enjoyed an undeserved edge in the debate, very largely on account of the false standing that it commands in England and America

The jury system is a relic of English history, and not a very satisfactory relic The attention that alternative models are now beginning to attract is a major step towards better justice

● *Etienne Mureinik is Professor of Law at Wits University* □

been retired on accelerated pension has at no stage changed These teachers have themselves always been responsible for their medical cover after termination of service These arrangements appear to be in line with general practice in the private sector. In the light of the sensitivity which has developed concerning this matter, and also because I am very sensitive about it myself, I decided to submit the matter to Cabinet for its consideration. I further decided that all educators who had accepted early retirement since 1 August 1992, owing to rationalization, should receive an amount not exceeding the State's contribution to the medical scheme to which they belonged on the last day of service for a period not exceeding 6 months after retirement

(2) No, because according to my information no change in respecct of the payment of membership fees to Medihelp had taken place in the case of people who were retired on accelerated pension

(3) No Educators who have accepted early retirement are already receiving the assistance referred to in paragraph (1).

(4) No

Mr R M BURROWS Mr Chairman, arising from the reply of the hon the Minister, could he inform us whether teachers, particularly those falling under the Administration House of Representatives who are being offered early retirement at this stage, are being informed about the financial position in regard to their medical scheme?

The MINISTER: Mr Chairman, I am not responsible for the management of the education department of the House of Representatives, so unfortunately I am not in a position to answer the hon member's question

*New questions*

**Press freedom**

*1 Mr P G SOAL asked the Minister of Mineral and Energy Affairs·

Whether, with reference to the reply by the then Minister of Home Affairs to Question No 7 on 18 March 1992 regarding legislation allegedly detracting from the free flow of information and restricting the Press from reporting, any steps have been taken or are being contemplated in respect of the repeal of the Petroleum Products Act, 1977 (Act No 120 of 1977); if not, why not; if so, (a) what steps and (b) when? B734E

The MINISTER OF MINERAL AND ENERGY AFFAIRS:

A comprehensive investigation into Government's involvement in the petroleum fuel industry is in the process of being finalised at present One of the aspects which is being addressed in the investigation, is to what extent the need for secrecy regarding specific petroleum matters has reduced under the present circumstances. The repeal of the Petroleum Products Act, 1977 (Act No 120 of 1977) is, however, not envisaged, but only certain regulations promulgated in terms of the Act. It is the intention to consider the amendment of those Regulations which prohibit the publication of information in respect of petroleum products as soon as possible

Mr R R HULLEY· Mr Chairman, arising from the reply of the hon the Minister, could he tell us whether the question of the deregulation of the petrol price is part of the inquiry he has just referred to?

The MINISTER· Mr Chairman, the reply to that question is "yes" The whole matter of the regulation of the petroleum industry has been looked into and the report will cover that as well

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**Capital punishment**

*2 Mr J H MOMBERG asked the Minister of Justice:† (252)

(1) Whether he will consider recommending that all persons sentenced to death be reprieved before Parliament takes a decision on the question of capital punishment, if not, why not, if so, what are the relevant details,

(2) whether he will make a statement on the matter? B737E





†The MINISTER OF JUSTICE (252)

(1) and (2) All persons sentenced to death are from time to time considered for reprieve.

On 29 January 1993 during his Opening Address the State President indicated that the Government was reconsidering its position on the carrying out of the death penalty and that Parliament would be consulted in the process of reconsideration

On 24 March 1993 the State President therefore indicated further that the Government has decided to approach Parliament on an appropriate occasion, on the basis of a motion, to give all hon members the opportunity to indicate their viewpoints regarding the carrying out of the death penalty in a vote at the end of the debate.

The State President will proceed with the consideration of possible reprieves

†Mr J H MOMBERG. Mr Chairman, arising out of the hon the Minister's reply, the question was specifically aimed at the situation of persons who have been condemned to death In the light of the almost inhuman situation existing at present, namely that some persons have been in death row for almost seven years, does the hon the Minister not feel that these persons can be reprieved before the debate on the death penalty begins?

†The MINISTER Mr Chairman, I have already indicated that at a certain stage the State President considers the granting of a reprieve in the case of all persons who have been condemned to death We must remember that this institution of the death penalty was amended hardly two years ago to make an appeal to the Appeal Court possible in all cases It is therefore an automatic appeal When cases are turned down by the Appeal Court, the question of reprieve remains In this context we are therefore referring to those cases already considered by the State President, but in which a reprieve was not granted As far as those persons are concerned, the carrying out of the death sentence has therefore been suspended temporarily It is the intention, in the light of the hon the State President's motivation on these two occasions to which I have referred, to ask Parliament for its view on the continuation of the carrying out of the death sentence.

†Mr J H MOMBERG Mr Chairman, further arising out of the hon the Minister's reply, does he not feel that he himself, purely on humanitarian grounds, can make such a recommendation?

†The MINISTER In the normal course of events a reprieve is granted by the hon the State President on the recommendation of the Minister of Justice. Those cases have already been disposed of We are talking here about a limited number of cases in which a reprieve was not granted If I understand him correctly, the hon member is now asking whether we shall again look at that category of persons I do not want to be cynical now, but there is a very strong feeling outside that these people did not ask twice whether their victims should get another chance or not That is the attitude outside We must look at this matter in a very objective and clinical way, and that has already been done We shall not carry out the sentence before we have asked Parliament to state its attitude I intend putting this question to Parliament within a few weeks

Mr P G SOAL Mr Chairman, further arising out of the hon the Minister's answer, does that mean that the hon the Minister did not tell us of the limited number of which it applied? Will he give us that figure and will he then confirm that, if it is decided at some subsequent date to reintroduce the death penalty, those people will be hanged?

The MINISTER. Mr Chairman, the law of the land is that. . . .

Mr P G SOAL No, I know the law of the land

The MINISTER· Mr Chairman, it is not that I think the hon member does not know the law

Mr P G SOAL But do you know it?

The MINISTER Perhaps he can just check after I have finished. [Interjections ]

The law of the land is that a person, even if not reprieved, may still approach the State President up to the very last moment We have so many instances of people approaching the courts at the very last moment with applications to suspend an execution In some cases such applications have been successful and in others not Therefore these people may still, under a

cont—D

special provision of the Criminal Procedure Act, but also according to the inherent jurisdiction of the Supreme Court, approach a court or the State President for final reconsideration That is the situation

In answer to the question whether those people would then qualify for immediate execution, let me say that they would still, up to the last moment, be able to approach the State for a reprieve. Unless something extraordinary happened, they would be placed in a position in which they were at risk

†Adv C H PIENAAR: Mr Chairman, further arising out of the hon the Minister's reply, I should like to know whether he, in preparing the reply to this queston, made use of the expert advice of an hon member of his caucus who had already been found guilty of murder.

†The MINISTER· Mr Chairman, I think the hon member for Heilbron will understand that I greatly appreciate his intervention However, I do not think that very relevant to the matter, because we are talking about another legal system

Mr D J DALLING. Mr Chairman, further arising from the hon the Minister's answer, and in the light of the fact that this Parliament will probably be phased out to become a new parliament in the next year, does he not think it is wrong, that it is incorrect, for the lives of these people, who have been on death row for some six or seven years, to hinge upon a decision of a political debate by a Parliament which is being phased out anyway?

The MINISTER Mr Chairman, if I may suggest, I think that this debate is now almost preempting the debate to come I suggest that the hon member save his arguments for that debate

The CHAIRMAN OF THE HOUSE Order! I regret that the maximum number of supplementary questions have now been put

Mr P G SOAL Yes, but the maximum number of answers have not been given

The CHAIRMAN OF THE HOUSE: Order!

*3 Mr A GERBER—Water Affairs † [Question standing over ]

**Education renewal strategy: documentation**

*4 Mr A GERBER asked the Minister of National Education.†

(1) Whether any philosophical points of departure are set out in the documentation on the education renewal strategy, if so,

(2) whether White teachers who are not prepared to subscribe to these points of departure will be allowed to retire from the service of the Department without losing any benefits, if not, why not, if so, what are the relevant details? B763E

†The MINISTER OF NATIONAL EDUCATION:·

(1) Yes

(2) No. The early retirement of CS-educators is regulated by legislation which is administered by the various Ministers of Departments of State responsible for the provision of education Current legislation in this regard does not provide for early retirement on these grounds

**Civil actions by detainees/banned persons: costs**

*5. Mr H J BESTER asked the Minister of Law and Order·

(1) Whether, with reference to the outstanding amounts owing to the State as referred to in the reply to Question No 150 on 19 April 1993, he intends (a) writing off all the outstanding amounts, including those in respect of which civil proceedings have already been instituted or in respect of which the debtors are making regular payments, and (b) recommending to the Treasury accordingly, if not, why not; if so, what are the relevant details,

(2) whether he will make a statement on the matter? B764E

The MINISTER OF LAW AND ORDER

(1) (a) If it appears from the final reports of the various Regional Commissioners that continued attempts to trace the debtors are unsuccessful and will only incur further unnecessary costs to the State, then the costs





will indeed be written off, subject to the writing-off powers which are delegated to the South African Police in accordance with Treasury Instructions It must be emphasized that such writing-off is not carried out lightly

(b) The request by the debtor, Miss J M Cherry, to have her legal costs of approximatey R25 000 written off, was referred to the Treasury for consideration Her request was not approved as a result of the fact that the Supreme Court had already found against her and had issued an order for costs, and the Treasury found no reason to deviate from the court's order for costs

(2) No

†Mr H J BESTER: Mr Chairman, arising out of the hon the Minister's reply, I want to say the issue here is that of persons who were charged in terms of emergency measures and the Internal Security Act This matter therefore relates to political prisoners In view of the fact that we released political prisoners in South Africa, and a whole lot of others went out along with them under cover of this process, I want to know whether the hon the Minister does not want to apply that general principle to these specific cases as well, where the issue is precisely people who were charged with so-called political crimes?

†The MINISTER· Mr Chairman, I am not insensitive about the matter, but I have a problem with practical implementation What is the cut-off date? Does it also include people who have already paid their costs? Must those costs be paid back? There are a multitude of problems in trying to determine the cut-off date for such a situation It is not as in the case of people who have been in prison for a while and who are released in terms of the test of whether they committed a political crime or not

I therefore sympathize with what the hon member is asking me, but he will realize that I really have problems in trying to deal with the matter Should we start at the Rivonia trial? Where must we begin? We have problems with what the hon member is suggesting

†Mr H J BESTER· Mr Chairman, further arising out of the hon the Minister's reply, I want to say that we are about to discuss the Indemnity Act, Act 35 of 1990, in which a specific date is mentioned I think it is October 1990 I do not want the hon the Minister to go back to Rivonia, as those people have died or been released long ago Will the hon the Minister be prepared to consider writing off debts with this cut-off date in these 20 cases under discussion?

†The MINISTER Mr Chairman, the hon member is trying to lure me into a trap by referring to the Indemnity Act again We determined a cut-off date that was not retrospective We determined a cut-off date and people were released from that date Therefore we cannot use it as an analogy [Interjections ] We cannot just go back into history because then the hon member must deal with the problem of people who have already paid, and then the question arises, why only the 20? Why not the previous 40? I think that we must now start closing the book and take the matter further from the date on which the Act was repealed

*Business interrupted in accordance with Rule 180C (3) of the Standing Rules of Parliament*

**Records of CCB/MI/other security services preserved**

*6 Mr R M BURROWS asked the Minister of National Education

Whether his Department has taken any steps in terms of the Archives Act, 1962 (Act No 6 of 1962), to preserve the records of (a) the Civil Co-operation Bureau, (b) Military Intelligence and (c) other security services, if not, why not, if so, what steps? B765E

The MINISTER OF NATIONAL EDUCATION

No special steps have been taken by my Department since this has not yet been required by law

Documentation of the bodies mentioned in the question is of a sensitive nature in respect of which secrecy is required Therefore such documents are not archives in the sense in which the word is defined in the Archives Act, 1962 (Act No 6 of 1962) and are consequently excluded from the provisions of the Act

# Boipatong massacre evidence

(252)

STAR 14/5/93

A Vanderbijlpark man, Johan de Jager, told the Delmas Circuit Court yesterday that on the night of the Boipatong massacre he saw about 150 men walking across a main road towards the township

Thirty-two men are facing 45 charges of murder resulting from the killing of Boipatong residents on June 17 last year. They have pleaded not guilty.

De Jager said the men he saw while on his way to work were walking with such "determination and speed" that he became afraid, went back home and phoned the police. They told him someone had already been sent out there.

He tried to go to work later but saw a group of about 40 men running from the direction of Boipatong. He also saw a police vehicle driving towards the township.

The hearing continues. — Own Correspondent.

# Healthy environment in new bill of rights

(252) CT 12/5/93

THE DP yesterday unveiled a "truly libertarian" bill of rights, which includes unique measures to give constutional effect to socio-economic rights

DP MP and chairman of the drafting committee Mr Tony Leon described the proposal as a "radical departure from traditional bills of rights" which was short, tightly drawn and not a mere "laundry list" of specific provisions

The proposed bill contains provisions regarding equality and the outlawing of "unjustified differentiation" which differ from ANC and government proposals

It also contains a unique provision dealing with "second generation rights" which proposes a mechanism to make "essentials of life" justifiable

The bill provides that every citizen shall be entitled to food and water necessary for survival, shelter, basic health care, basic education and a healthy environment

Mr Leon justified the inclusion of these second-generation rights as necessary because otherwise the bill would be "empty, cruel words echoing in a wasteland of deprivation and denial"

The bill also provides for an array of enforcement mechanisms, including provisions to secure information from the state, rights to administrative justice and easy procedure

The articles on the right to equality contain a provision protecting but limiting "private choice", the right to life, liberty, privacy and property

## DP now out the closet on gay discrimination

**THE Democratic Party yesterday became first South African political party to call for the protection of gay rights in a bill of rights.**

**Earlier this year the National Party dodged the question of gay rights but saying the matter still had to resolved, and the ANC said the issue would have to be resolved by the courts.**

**The DP, however, said discrimination on grounds of sexual orientation would be prohibited in terms of its bill, which it released at a press conference yesterday**

# DP tackles the dilemmas of a Bill of Rights

B/DAY 13/5/93. **ALAN FINE** (252)

ANY BILL of Rights is fraught with complications And given our historical baggage, the drafters of an SA Bill of Rights face far more pitfalls and temptations to abuse the concept than did, say, their American counterparts

A Bill of Rights cannot be a simple source of guarantees of individual liberty Social life is more complicated than that Almost any action by one individual will affect another.

And, since we are not at the beginning of time, it can easily serve to entrench existing disadvantage and ill-gotten privilege If, on the other hand, it leans too far in the opposite direction in pursuit of reparation and retribution it could leave the formerly privileged minority as rightless as its victims once were Whether there is any moral justification for this, the consequences for future stability and development would be dire

In addition, the drafters of a Bill of Rights, in the quest for consensus, could be tempted to leave the terms so vague as to be meaningless On the other hand, a Bill of Rights cannot provide for every possible contingency. That is why it must be open to interpretation by the courts Furthermore, there are grey areas where precise standards cannot be specified and where social norms often change over time Here, again, the courts are effectively empowered to detect those changes and set new standards

This, too, is not altogether satisfactory To return to the US, public discourse is full of complaints about the Supreme Court in Washington DC, unelected and hence not subject to the public will, effectively legislating about sensitive issues ranging from abortion to affirmative action In an imperfect world, however, that is unavoidable The American problem could be mitigated were its selection of Supreme Court judges less subject to presidential and party political whim.

The value of the draft Bill of Rights published on Tuesday by the DP is that (with two exceptions) it confronts these difficulties and dilemmas head on This is in contrast to the NP whose own proposed Bill is cynically designed to protect what remains of white privilege; and the ANC whose draft — dressed in terms worthy of the best of the Western world — contains a couple of "small print" disclaimers designed to ensure that individual rights do not get in the way of implementing the organisation's political programme

Indeed, in some respects the ANC's version *is* its political policy, and seems designed to ensure that any other majority party would be forced to implement the ANC's mildly socialist or social democratic programme Whatever the merits of that programme, its enforcement is not the function of a Bill of Rights

Three issues — discrimination and affirmative action, the "privatisation of apartheid" and so-called second generation (socio-economic) rights — illustrate the rigour of the DP's approach.

☐ "The new constitution," argues the DP's explanatory note to article 2 of the draft Bill, "must commit itself to equality and set itself against discrimination, especially racial discrimination." But, it goes on to argue, the Bill will have to differentiate between justified and unjustified discrimination.

This is because "discrimination has created pervasive inequality in this country, and if we are to take the commitment to equality seriously, we have to acknowledge the need for affirmative action programmes to undo existing inequalities. However unpalatable it may be, we have to acknowledge, too, that if such programmes are to benefit their legitimate beneficiaries and no one else, they will have to use the same criteria for differentiation as those which brought about the inequality"

And so, at a stroke, the DP refutes the often self-satisfied chortling by those conservatives who attempt to portray measures to eliminate the effects of racism as being as evil as racism itself. And the draft also puts paid, one would like to think, to the radical free-marketeer argument that market forces alone would optimally eliminate inequality based on (unjustified) discrimination

This is not to deny arguments that certain affirmative action programmes — especially those involving quotas — can cause prohibitive inefficiencies and benefit only a small, new elite. To avoid those pitfalls, though, SA will have to rely on the wisdom of the private sector and the new generation of legislators.

☐ A central strand of government's proposed Charter of Fundamental Rights published in February relates to freedom of association and, more particularly, the freedom to dissociate. This, taken together with the concept of group rights which runs somewhat vaguely through the charter, opens the way for the privatisation of apartheid.

The explanatory notes confirm that the DP is alert to this· "Few would argue for state intervention against all discrimination anywhere ... The choice of whom to invite into our homes, for instance, falls into that category . Rather than trying to confine equality (and hence anti-discrimination law) to the public sector . it seems better to recognise that there is a sphere of privacy within which decisions to differentiate need not be justified. But to recognise a sphere immune from intervention against discrimination is to invite racists and other discriminators to take shelter there. Many will try improperly to expand the shelter given to discrimination by the need to protect privacy."

To guard against this, the DP draft Bill confines immunity "to decisions made in the exercise of the kind of private choice designed to preserve personal autonomy". For the same reason, the right to freedom of association is subject to the requirement of equality

Exactly where the boundary line will be drawn to give effect to this principle will be up to the courts This is one of those grey areas where social norms shift over time. A quoted example is private sector employment. This was once considered to be in the private sphere, but now, as the Industrial Court has often asserted, discrimination is unacceptable and unlawful A similar process is occurring, the DP suggests, with regard to social clubs which have historically chosen to exclude from membership blacks, Jews and/or women

☐ On the vexed question of second generation rights, the DP argues "Without the basics of life it may be impossible to exercise one's basic rights" So, the draft Bill affirms. "Every citizen shall be entitled to the food and water necessary for survival, to shelter from the elements, to basic health care, and to a clean and healthy environment."

But, it adds, it is the prerogative of the legislatures "to decide how these entitlements are to be realised . A decision which is reasonable and practicable and which respects the limitations on the resources available to realise the relevant entitlement shall be considered justifiable" In other words, while the social good is one of the goals of the Bill of Rights, and hence the constitution, their best way of achieving it is the province of the relevant, elected law-making body

The DP document has much else to commend it, including its handling of the right to liberty and the suspension of individual rights — but with strict safeguards — during states of emergency A great deal of thought has gone into other difficult questions such as which rights are at all derogable and which are not

The two areas where the drafters have decided to sit on the fence are those of the death penalty and abortion They have chosen to use the ambiguous US Bill of Rights terminology on the "right to life" and the right not to be subject to "cruel and unusual punishment". On these two clear-cut questions, the DP drafters should surely have been willing to take a stand

That cavil aside, though, the DP has made a definitive contribution to the Bill of Rights debate — another indication of how the party's contribution to SA politics far exceeds its level of voter support.

tive Party President's Councillor Mr Clive Derby-Lewis, his wife Gaye and Polish immigrant Mr Janus Walus were

a short distance from the home and later said they had found a "hit-list" in his house. Following

## Leaders at 'mercy of NP'

THE leadership of the ANC, PAC and SACP who have been returning to South Africa since 1990, remain in the country at the mercy of the National Party Sowetan 13/5/93

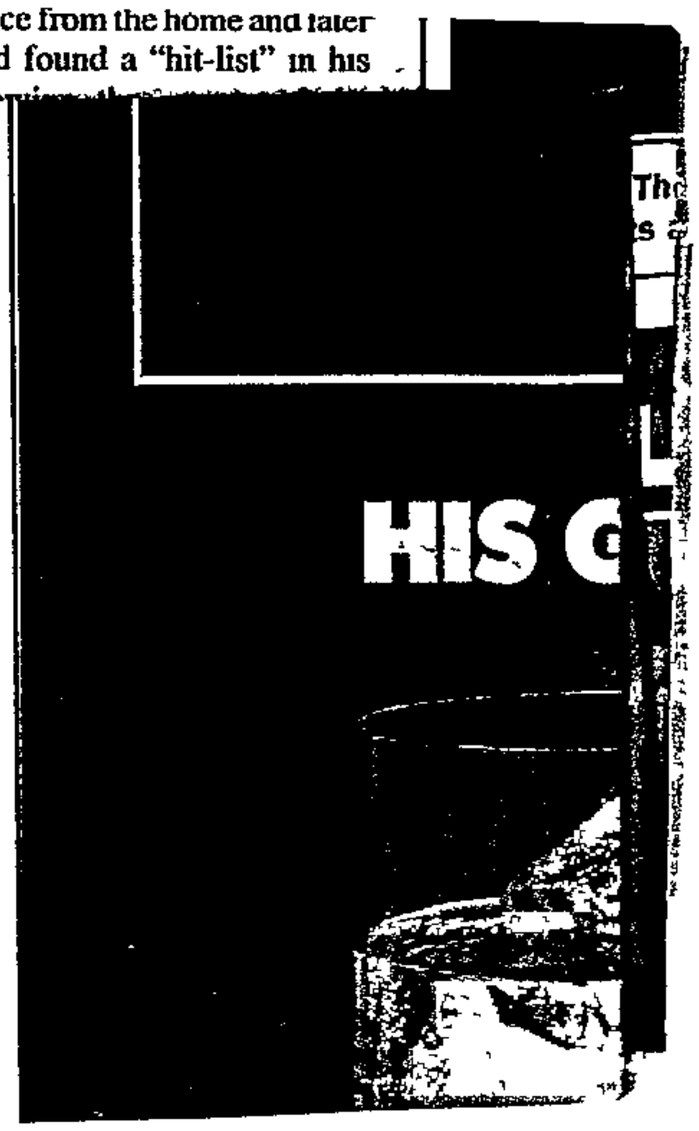
They would not receive absolute indemnity until they had abandoned the armed struggle, the Minister of Justice, Mr Kobie Coetsee, said in Parliament last night.

"They (the ANC) have only suspended the armed struggle, they have not abandoned it," he said

He was defending a motion placed before Parliament yesterday which, if passed, will give President FW de Klerk the power to extend indemnity to leaders of liberation movements for another year

In simple terms, only De Klerk can decide whether the leaders of the liberation movements are arrested *en masse* (252)

ANC-aligned Independent MP Mr Dave Dalling said last night the motion was particularly outrageous as it gave the Government a hold over the leaders of the liberation movements, probably in an effort "to make them more pliable in negotiations"



# 'New reform challenge to SA law'

NEVER before had South Africa's legal system been confronted by the challenge of reform on such a scale, the Deputy Minister of Justice, Mrs Sheila Camerer, said yesterday.

"The administration of justice must constantly change and adapt in order to keep abreast with developments and the changed needs of society," she said, speaking at a conference in the city on ways of improving the administration of justice in the Western Cape.

The conference was attended by, among others, local magistrates, prosecutors and representatives of the Cape Bar Council, the Department of Correctional Services and Western Cape police. — Sapa

E 13/5/93

B/DAY 13/5/93

# Commission to look at role of attorneys

Political Staff

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CAPE TOWN — The terms of reference for the commission to investigate whether attorneys should have the right to appear in the Supreme Court were released yesterday by Justice Minister Kobie Coetsee

The commission is to investigate whether it is desirable, feasible and in the public interest that attorneys in private practice be given the right to discharge all or some of the functions of an advocate, including the right of appearance in the Supreme Court.

If attorneys were to be granted these audience rights, the commission would investigate what academic qualifications they would require, whether they should pass an examination to appear in the Supreme Court, pupillage for advocates, the so-called 'cab-rank' principle at the Bar, professional advertising, the rendering of pro deo service by attorneys with audience rights and whether attorneys could appear as junior counsel or be given SC status.

The commission would also investigate legislative enactments or amendments necessary to give effect to its recommendations, Coetsee said in reply to a question.

# Arms Bill passed

Star 13/5/93

CAPE TOWN — The Arms and Ammunition Bill, including sentences of five to 25 years for anybody caught with certain automatic weapons and explosives, was passed unanimously by all three Houses of Parliament yesterday.

The Act contains a 60-day temporary indemnity clause in terms of which people can hand in weapons — including AK-47 rifles — or explosives to police. The legislation led to a row between Government and the ANC last week. — Sapa

# Indemnity sword over ANC leaders' heads — MP

Star 13/5/93

By Chris Whitfield
Political Correspondent

CAPE TOWN — Several leading ANC members could expect full indemnity from prosecution for politically motivated crimes only if the organisation abandoned the armed struggle, Justice Minister Kobie Coetsee said yesterday

His remarks came after sharp criticism in Parliament from ANC Sandton MP Dave Dalling, who said several top members of the organisation had a sword of Damocles hanging over their heads because the Government had not granted them full indemnity

Coetsee said "The sword of Damocles is made of ANC reluctance to abandon the armed struggle . They have only suspended the armed struggle Complete amnesty can only go hand in hand with the abandonment of the armed struggle"

Several members of the ANC national executive committee have temporary indemnity in terms of the Indemnity Act of 1990

According to Dalling they include Thabo Mbeki, Steve Tshwete, Joe Slovo and Umkhonto we Sizwe commander in chief Joe Modise. Yesterday's exchanges came during a debate in Parliament on a notice of motion tabled by Coetsee calling for the extension of the Act for another year.

Democratic Party MP for Houghton Tony Leon said the motion had been tabled because half the ANC executive would be locked up if the legislation were not extended.

"They will not accept the Further Indemnity Act and, to the credit of those who have chosen not to shelter behind the (Act), we support this motion," Leon said

Dalling said that while he supported the motion, it was outrageous that many among the top leadership of the ANC had not been granted permanent indemnity He said Coetsee was trying to hold the ANC leaders "hostage"

The extension of the Act was accepted by all parties.

FM 14/5/93. (252)

BILL OF RIGHTS

# Deeply sensible

**Not only** is the Democratic Party's proposed Bill of Rights (published this week) mercifully brief and devoid of ideological jargon, it is framed in such a way that final interpretation is placed where it belongs — with the Supreme Court

The document is a liberal beacon that government and the ANC should consider using to light paths through their own torturously detailed and contentious draft Bills published in recent months (*Current Affairs* February 14)

Chairman of the DP's drafting committee, Tony Leon, says the document is a serious attempt to create a balance between equality and the liberty of individuals

The drafters deliberately avoided cramming DP policy into their document — a charge that has been made repeatedly against government and the ANC — in the belief that most policy claims (jobs, minimum wages, access to land and so on) are not constitutional rights

The Bill is rooted firmly in the liberal philosophy of the DP and its predecessors Among other things, it guarantees equality, freedom from discrimination, the right to life, dignity, privacy and liberty, freedom of speech and religion, the right to buy and sell movable and immovable property, entitlement to the "essentials of life", the right to administrative justice and information and freedom of learning and education

"Unjustified" discrimination on the grounds of race, ethnic origin, colour, gender, sexual orientation, age, disability, religion, creed or conscience is not allowed Differentiation will be considered justified to preserve "personal autonomy" such as the choice of friends or marriage partners and other actions to secure privacy

It will also be justified, especially in the short term, to undo past inequalities through affirmative programmes, but only for as long as is necessary to assist the beneficiaries

The drafters note that however unpalatable it might be, the same criteria that brought about the inequality (that is, race in most cases) will have to be used to remedy it Differentiation could also be justified, for example, to give separate religious education or to segregate lodgings by gender to protect women against sexual harassment

The Bill outlaws attempts to use the right to privacy or freedom of association to "privatise" apartheid by the creation, for example, of racially exclusive clubs or residential areas

The same principle could apply to the barring of certain groups, such as Jews or women, from private clubs However, the drafters accept that the boundaries of privacy are constantly shifting and cannot be defined by a Bill of Rights or the Constitution Therefore, the court entrusted with interpreting the relevant clauses of the Bill would have to define and redefine the boundaries over time "as society's conception of that idea matures and develops"

Perhaps the most controversial aspect of the Bill is the clause providing for "entitlement to the essentials of life" It is the DP's proposal to accommodate the so-called second and third generation rights (such as the right to housing, education, health care and jobs)

The drafters argue that certain basic conditions, such as the means of survival, are necessary for democracy and should be protected by the Constitution However, the manner is which the entitlements are realised is a matter for the legislature and executive But such decisions must be justifiable, honest and rational

Where a decision is not justifiable — for example, failing to supply essential services to a particular community for no good reason — it can be challenged in court, but the court will not be required or permitted to make policy choices It will simply review the choices made by legislators and officials and effectively force them to justify their decisions They will be morally obliged to rethink unjustified actions

The right to administrative justice places a similar obligation on government It entitles people — or classes of people — who are adversely affected by government action to a lawful, reasonable and procedurally fair decision on the action and guarantees that reasons for the action will be given by government The drafters believe this clause will foster a governmental process that is accountable and participatory and will require public officials to thoughtfully and deliberately consider their decisions

**DP's Leon** *aiming for effective enforcement of rights*

The Bill also protects the right to life, but takes no stand on capital punishment, preferring to leave parliament to legislate on the issue and the court to determine whether such legislation infringes any entrenched right

Provision is made for the Bill to be suspended as a consequence of the declaration of a state of emergency and then only under certain conditions

Leon points out that at least half the Bill deals with enforceability mechanisms, including "novel" provisions to secure information from the State and ease of procedures to allow the poor and inarticulate to approach the courts for relief

"Fundamental to our Bill is recognition of the fact that without effective means of enforcement, legal rights will become little more than moral claims, readily ignored when the forces of government find it convenient to do so"

The DP's proposals will now be circulated as a discussion document to stimulate further debate and also referred to a panel of experts — not all DP supporters — for further refinement

There is little doubt that the document provides a number of important possible compromises on key issues contained in government's and the ANC's Bills and is, therefore, worth serious study ■

FM 14/5/93. (1252)

COMMERCIAL COURT

# Waiting for teeth

**Though the decision** to set up a specialised commercial court is sound in principle, a major flaw in procedures remains A case can only be referred to the court if all parties to the action agree There is no provision to compel a recalcitrant defendant to submit to its jurisdiction

Webber Wentzel partner Michael Bennett, one of the representatives of the Transvaal Law Society in the negotiations leading to this development, explains that introducing an element of compulsion would have meant either running the gauntlet of the Supreme Court's Rule Board — a time-consuming and tiring procedure — or the amendment of the Supreme Court Act

So the Commercial Court has been started on a consensual basis in the hope that the new procedure will prove itself in those cases where the consent of all the parties to litigation can be obtained This should make it easier to introduce a procedure to compel an unwilling party to accept the jurisdiction of the court

In a Supreme Court case, any technical or interim application must be heard in the course of a motion roll by the judge to whom that day's roster of applications has been allocated Except by coincidence, each interim hearing will be before a judge to whom the case is entirely new, so he will not find it easy to slice through the technicalities to come to grips with the issues of substance

Under Commercial Court procedure, a case will be allocated to a specific judge at an early stage of the proceedings and he will deal with the matter to the end He will have authority to slice through all procedural requirements where he considers this appropriate If the UK experience is any guide, even complex issues will come to trial within weeks at most

The court has been introduced in the Witwatersrand Local Division because most of the important commercial cases are heard there The chairman of the Bar Council in the Witwatersrand Local Division, Wim Trengove, hopes it will tempt overseas firms to litigate in Johannesburg The weak rand would make costs modest when converted to sterling or dollars

A wide range of actions will fall within the court's jurisdiction including corporate law and practice, mining, sale and lease, agency, banking and finance, suretyship, international trade, construction and engineering, intellectual property, such as patents and trademarks, and restraint of trade and unfair competition

There are two main categories of case where a defendant would want to use the many time-wasting techniques available under the conventional Supreme Court procedure The first is that of a large corporation wishing to resist a claim by an individual Use of all the dilatory procedures, under the ordinary rules of court, will often create a financial barrier to successful litigation which can make a mockery of justice

The second is that of the chronic debtor — streetwise in the ways of the civil law — who might delay his obligation to pay, to the embarrassment of his creditor

A big advantage is that highly priced expert witnesses can give their evidence without any risk of costly delays The party who instructed the witness has to pay for any extra attendances (subject, of course, to the eventual order on costs)

The barrier to litigation inherent in high costs operates to the benefit of large corporations and against the individual In the new SA, this feature of current procedure is likely to attract unsympathetic attention from government Any practical steps to anticipate that development by bringing down the cost of litigation must be good for the public and the legal profession alike ■

# Lawyers allege Von Lieres cover-up of police brutality

B/DAY 14/5/93.

(252)

STEPHANE BOTHMA

LAWYERS for Human Rights (LHR) suggested yesterday that Witwatersrand Attorney-General Klaus von Lieres und Wilkau SC and the SAP were attempting to cover up acts of police brutality by denying monitors access to dockets

Earlier this week, LHR national director Brian Currin also accused Transvaal Attorney-General Jan D'Oliveira SC of similar actions.

Both Von Lieres and D'Oliviera have denied strongly they are involved in a deliberate cover-up and say the claims are grossly defamatory and unjustified

The row has prompted the national peace secretariat to make the issue a priority item on the agenda of its May 22 peace committee meeting

The LHR assertions followed an SABC Agenda programme this week on police brutality in which police reporting officer Jan Munnik claimed his investigations were being frustrated by the SAP and Von Lieres, who refused to give him access to dockets he asked to see.

"The refusal of the SAP to allow him (Munnik) access to dockets was based on an opinion received from the attorney-general of the Witwatersrand

"This smacks of a cover-up and renders Munnik's appointment useless and a waste of taxpayers' money," Currin said in a statement

Munnik, an advocate, was appointed a police reporting officer in terms of the national peace accord

Von Lieres said yesterday his involvement in the matter had been to supply the SAP with a legal opinion on the interpretation of existing laws and provisions of the peace accord in relation to the status of privileged police dockets

Von Lieres said Currin's accusations were "defamatory, malicious and destructive of the attorney-general's integrity"

Sources said Von Lieres had demanded SABC TV offer an apology, with the same prominence as the Agenda programme.

Quoting from the peace accord, Von Lieres said signatories acknowledged that the provisions of the accord were subject to existing laws, rules and procedures

If a clash of interests existed between the accord and existing laws and rules, the provisions of the accord could not prevail above the law.

"On the principle of the matter I gave the police an opinion," he said, adding his opinion had corresponded with that of the police's own legal experts

"I have never seen or met this Munnik I don't know him, and he has never approached me regarding any problem concerning any access to a docket," he said

Procedures, clearly spelt out in the accord, stated that the unit investigating alleged police torture should submit a written or verbal report to the police reporting officer on the progress and outcome of investigations, he said This did not include making privileged police dockets available

The SAP said yesterday it had adhered strictly to the peace accord Contents of police dockets were regarded as privileged information and would therefore not be made available to the police reporting officer

# Forum date postponed a day

B/DAY 14/5/93.

BILLY PADDOCK

THE negotiations forum at which the date for nonracial elections is expected to be announced has been postponed a day and and will now meet on June 3

The rest of the Kempton Park negotiations schedule has also been reorganised.

And it was learnt yesterday that four members of the peace secretariat had been seconded to the new technical committee dealing with violence They join the ANC's Sydney Mafumadi and Inkatha's Walter Felgate on the committee, which also has a government member sitting on it

Yesterday was the deadline for parties to submit proposals to the seven technical committees, which were briefed for their tasks on Monday

The committees report to the planning committee today The planning committee facilitates the process

Sources said government's proposals were "merely a refinement" of the constitutional proposals released by Justice Minister Kobie Coetsee at the beginning of the year They dealt primarily with principles to be included in an interim constitution and those that should remain in the final constitution

The technical committees have until May 25 to deal with an avalanche of work to prepare recommendations and draft legislation which will form the basis of the negotiating council discussions on May 25 and 28

The council will then negotiate on key issues and reach as much common ground as possible in time to report back to the negotiating forum on June 3.

Negotiators do not believe they will have reached agreement on details of the transition process by this date, but are aiming for the setting of an exact election date and obtaining agreement on broad principles for the way ahead.

Meanwhile, an important bilateral meeting between government and Bophuthatswana that was due to take place this week was cancelled. No firm date for a future meeting was set Two government meetings with the CP this week failed to make any progress and were described by government sources as "difficult"

However, in a meeting with Afrikaner Volksunie leader Andries Beyers, Constitutional Development Minister Roelf Meyer managed to make headway and kept the right-wing party in the process after threats that it might withdraw

Beyers hailed the meeting as a "breakthrough" and said he saw a future for his party remaining in the process and making a meaningful contribution to it

# 61 killed, 165 hurt in 7 days

Sowetan 14/5/93

## ■ Figures show increase

SIXTY-ONE people were killed and 165 injured in the seven days ending on May 11, according to the Human Rights Commission's weekly repression report released yesterday

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It said the figures were higher than the previous week's totals of 46 deaths and 40 injured Of the 61 deaths, 28 had occurred in Natal, 19 in the PWV area and 14 elsewhere — *Sapa*

# ANC man 'spurned abuses probe'

B/DAY 14/5/93

RAY HARTLEY (252)

FORMER ANC security department official Mzwai Piliso refused to co-operate with efforts to investigate complaints of human rights abuses in ANC camps in Angola between 1985 and 1987, ANC legal department head Zola Skweyiya said.

Skweyiya was testifying during the first day of public hearings yesterday by the Motsuenyane commission into alleged abuses by ANC members in the camps.

The commission, headed by former Nafcoc president Sam Motsuenyane, was appointed by ANC president Nelson Mandela last year to investigate whether "specific and named persons belonging to the ANC have committed acts of cruelty towards former detainees and prisoners".

Skweyiya, who was appointed ANC officer of justice to investigate alleged abuses in 1985, said the security department regarded information on its activities in Angola in this period as "a military secret".

"He (Piliso) told me very clearly that I would never get co-operation from him. I could not carry out my duties at that time as the officer of justice," he said.

He had experienced hostility from security department officials and had been threatened with imprisonment when he requested permission to visit the Angolan camps between 1985 and 1987.

Skweyiya said the "new crop" of Umkhonto we Sizwe recruits, who fled SA

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# ANC probe

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☐ From Page 1

after the 1976 school riots, had shown less discipline than earlier ANC recruits delegated to join MK by ANC branches inside the country "The only thing they wanted was to carry a gun"

He said he had been able to visit Angola only in 1987 after security department changes had led to better co-operation

Skweyiya testified that the ANC had conducted elaborate court proceedings to ensure fair trials for those charged by the security department Abuses in the camps were alien to the ANC's traditions of fair trial and the standards it set itself as a liberation movement

Earlier, the commission heard evidence from ANC security department official Gibson Makhanda Makhanda said the attitude of the ANC leadership at the 1985 Kabwe conference, where a code of conduct was drawn up to limit abuses in the camps, was that "everyone in the ANC should work to strengthen the security department" He said the ANC leadership, including then ANC president Oliver Tambo, was "extremely upset about what was taking place" in the camps

☐ The International Society for Human Rights released its report on human rights and the ANC yesterday It claimed the killing of detainees continued after "public declarations of regret" by the ANC in 1990 The ANC was still maintaining prisoners "according to reports from the autumn of 1992", it said.

# Murder: jail term suspended

Court Reporter

A former police reservist was given a wholly suspended sentence following his conviction in the Rand Supreme Court yesterday for murdering his mother's boyfriend during an argument about rape of a 12-year-old relative.

Mr Justice Hannon found Barend van der Walt (28) of Fairview, Johannesburg, had been acting under "a high degree of provocation" when he shot Francois Jean Stephen Cronje on April 17 last year.

Agreeing with a witness who described Cronje as "a pig", the judge said Cronje had made Van der Walt's mother's life a misery. He accepted Van der Walt was afraid of Cronje and that there was no love lost between the men.

Although Van der Walt should have reacted differently, the judge found mitigating factors outweighed aggravating factors. He sentenced the first offender to six years, suspended for five years.

# Info on camps was classified, ANC probe told

Star 14/5/93

By Montshiwa Moroke

The head of the ANC's constitutional department yesterday told an ANC-appointed inquiry that he had been threatened with detention while trying to establish whether the organisation had held prisoners.

The existence of ANC detention camps was classified information known only in ANC military circles, Zola Skweyiya told the commission of inquiry chaired by Dr Sam Motsuenyane

"As head of the Justice Department I wanted to know who they were and why they had been detained

"I could not perform my duties because of the lack of co-operation from some ANC members. Some even threatened to detain me.

"Most of the detainees were from the 1976 generation Before then detention camps were unheard of."

The commission was appointed by ANC president Nelson Mandela to investigate, among other things, whether specific ANC members had committed acts of cruelty towards former detainees, whether there were missing people and, if so, the circumstances under which they disappeared.

The commission plans to present its report to Mandela by the end of June.

Earlier, ANC stalwart Andrew Mlangeni said he had seen ANC prisoners in Kampala, Uganda, but none had complained about maltreatment.

The hearing continues

● The German-based International Society for Human Rights yesterday recommended that a special UN fund be created to provide reparation to victims of ANC abuses.

THE LAW FM 14/5/93

# Why bother?

(252)

**Government's vast** statutory power to counter crime and violence is about to be augmented with yet another tough measure — but critics argue that many of the laws are virtually useless An amendment to the Arms & Ammunition Act, piloted through parliament last week by Law & Order Deputy Minister Gert Myburgh, increases penalties for the illegal possession of AK-47 rifles and hand grenades Myburgh says that last year nearly 500 people were killed with AK-47s and 69 in grenade blasts

The new measure comes barely a week after DP justice spokesman Tony Leon slammed government for creating a "paper chase of legislation," much of which amounted to "little more than words on paper"

Speaking in the parliamentary debate on the Justice budget vote, Leon said SA's system of justice had failed to be effective, accessible or credible To back his argument, he cited the Criminal Law Second Amendment Act, rushed through parliament last year to deal with the problems of illegal weapons, intimidation and private armies The law defining the offence of "indirect intimidation" stipulated that the maintenance and organisation of private armies constituted an act of indirect intimidation and provided for heavy penalties

But in spite of the measure, Afrikaner Weerstandsbeweging leader Eugene Terre 'Blanche boasted at a recent meeting in the eastern Cape that his "wenkommando army" was 45 000 strong and he invited more recruits

"He incites lawlessness and violence and the State turns a blind eye So we churn out more legislation and we do nothing to bring the full force of the law to bear on transgressors," said Leon He added that there were many similar examples of people on the Left who also broke the law with abandon

Government's contradictory approach to justice was further illustrated by last year's urgent effort to ban gambling. The Howard Commission that was eventually appointed to investigate the issue recommended the legalisation of the very type of gambling government had wanted to outlaw.

A third example of recent "legislative futility" was the Drugs & Drug Trafficking Act approved last year. The measure, described by Leon as draconian, was opposed by the DP who were accused by Nationalist spokesmen of being soft on drug-pushers Though Justice Minister Kobie Coetsee told parliament at the time that the new law was "striking at the heart of the problem" and was "long-awaited and timeous," it came into operation only 10 months later

"The cumulative effect of this pattern of legislative ducks and drakes, which has come to characterise the government in decline, means one thing the failure to apply laws which this government enacts simply under-

* * Cont →

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scores the need to move SA back on track and install a new interim government," declared Leon

He said a second crisis facing the administration of justice was the replacement of principle with expedience, which had undermined the confidence of ordinary people in the system of justice

This was best illustrated by the Further Indemnity Act, which allowed the early release of prisoners such as Barend Strydom, Khethani Shange and Robert McBride Coupled to this was the ease of obtaining bail for people charged with violent crimes

"There is no doubt that respect for the law is a prerequisite for democracy But if the criminal justice system collapses and the majority has no confidence in the law, crime will never be controlled," he said ■

# Ruling on no-jail sentences by judges

ARG 15/5/93

(252)

**JEAN LE MAY**
Weekend Argus Reporter

PRISON officials will in future have less say in deciding how correctional supervision sentences are carried out following recent judgments in the Appeal Court in Bloemfontein and in the Cape Town Supreme Court.

"The courts should decide, not some clerk in the Department of Correctional Services," said a Cape Town lawyer, who asked not to be named

And Professor Stephan Terblanche of Unisa said in a recent article that the courts, "without getting bogged down in too much detail", should prescribe the conditions of such sentences instead of leaving it to the prison authorities

Correctional supervision was introduced in the Cape last year It is a sentencing option designed to keep suitable offenders out of jail Instead of jail, they undergo house arrest, community service or a wide range of other restrictions

But the system is obviously still having teething troubles, since several such sentences have gone on appeal.

Up to now the prisons department, and not the courts, has had the final say in deciding how the sentences should be carried out

For example, the prisons department sets a jail term of one-sixth the total sentence for an offender whose sentence is "subject to correctional supervision".

So a person sentenced to five years will spend 10 months in jail and the remaining term under supervision prescribed by the prisons department

This probably explains why former Gilbey's bookkeeper Mrs Margaret Harding, who was sentenced to five years with correctional supervision, is currently serving a 10-month term in Pollsmoor prison

Other restrictions imposed by prison officers on probationers may forbid the use of alcohol, lay down the place where community service must be performed or determine the hours the offender must stay at home

"If an offender is an alcoholic a flat prohibition will be useless and will only land the man in more trouble — the prison authorities have the power to have a probationer re-arrested and jailed if he breaks the conditions of his probation," said another lawyer.

**■ The courts, and not the Prisons Department, will in future decide conditions under which sentences such as house arrest will be carried out.**

Appeal Court judgments have been given this year in S v R 1993, Peter Ndabe v The State and Ruthven v The State In a Cape Town case, Mr Justice Pat Tebbutt last month referred a sentence on appeal back to the sentencing magistrate

In his judgment acting Appeal Court judge Mr Justice Kriegler said judicial officers were responsibile for imposing suitable sentences and this could not be abdicated

It could be "a dereliction of duty" to leave decisions on details of the sentence to the prisons department, he said

Mr Justice Tebbutt said "Whatever conditions are imposed, it seems to me implicit that the probationer should be encouraged by suitable relaxation of his conditions from time to time There should also be the ability of the correctional authorities to withdraw these relaxations should the probationer abuse them."

It was clear that the law intended that conditions should be ameliorated or relaxed, but he took the view that the prison authorities were not entitled to increase restrictive conditions without applying to court, he went on

It was therefore clear that the sentencing court should lay down the terms of any component of correctional supervision

In formulating conditions, the court would wish to have help from the probation officer or prison official

"Such a report will in future have to contain far more than a mere statement that the offender is a suitable candidate for correctional supervision It will have to set out the reasons and a proposed programme"

The court would not necessarily be bound by such a proposal but would have to formulate its own conditions, possibly hearing evidence from the probation officer and the offender

Criteria for correctional supervision were that the sentence must be severe enough to "meet the retributive needs of society"

**ALL RIGHTS:** Mr Tony Leon with the Democratic Party's draft Bill of Rights, one of four such documents now on the table in South Africa.

# Phenomenal reception for DP's proposed rights bill

ARG 15/5/93 (252)

**■ The Democratic Party has unveiled a draft bill of rights with enforceable safeguards against any bid by future totalitarian-type rulers to undermine a citizen's rights. Weekend Argus Political Correspondent FRANS ESTERHUYSE reports.**

WIDESPREAD local and foreign interest has been shown in the Democratic Party's draft bill of rights — and first responses indicate the bill is seen as one of the most important developments of its kind so far produced in South Africa

The chairman of the DP's drafting committee and MP for Houghton, Mr Tony Leon, said the public response had been "phenomenal"

The DP head office, he said, could hardly keep up with printing orders

He said "encouraging" initial responses had come from both the government and the African National Congress

"Maybe our bill can provide a bridge between the positions of the government and the ANC," he said "A bill of rights must be an instrument through which a minority and a majority both can relinquish their claims to absolute power"

The DP bill now joins others submitted by the NP, the ANC and the Inkatha Freedom Party

The DP's bill was drawn up by a committee of MPs and lawyers, in consultation with leading legal academics and practitioners It now will be referred to a group of eminent South Africans and key DP members for consideration and comment

An important feature of the bill is its mechanisms for enforcement which include provisions for securing information from the state, innovative rights to justice and fairness, and easy procedures to allow the poor and inarticulate to approach the courts for relief

Enforceability is one of the requirements of an effective bill of rights on which all the top constitutional experts agree No matter how lofty the aims of a bill and how well it is written, it is meaningless if it cannot be enforced, they argue

As Mr Leon put it "Fundamental to our bill is recognition that without effective means of enforcement, legal rights will become little more than moral claims, readily ignored when the forces of government find it convenient to do so

"In every clause, the drafters of this bill took heed of the warning of United States Supreme Court Justice William J Brennan against creating 'paper promises whose enforcement depends wholly on the promiser's goodwill, rarely worth the parchment on which they were inked'"

The DP's drafting committee was unanimous that the country's constitution should allow the bill of rights to be enforceable through the existing Supreme Court structure, with a final appeal to the Appellate Division, which, in turn, might provide for an expert constitutional appeal court.

It was the constitution which had to provide the mechanisms for entrenching the bill of rights

A feature distinguishing the DP's bill from those of the NP and ANC was that it refrained from attempts to turn party-political policy or promises into "rights", according to Mr Leon

A provision the bill entrenched was every person's right, when adversely affected by government action, to a lawful, reasonable and procedurally fair decision It also guaranteed the right to be given reasons for a government decision

Another significant provision was the citizen's right of access to information.

This included information used "in governance of the people" and specific information the state possessed in respect of individual citizens Provision was made for exceptions in rare cases where disclosure would not be in the public interest

The bill entrenched and safeguarded rights including those to essentials such as food, water, shelter, basic health care, and education Other fields included dignity and privacy, fundamental freedoms, citizenship, voting, property, family life, language and culture

Mr Leon said the government had created an artificial distinction between enforcement of rights between the citizen and the state, and enforcement between individuals By making this "absurd" distinction, the government was inviting racists and other segregationists to seek shelter behind a bill of rights and to "privatise" apartheid

"Most of the rights contained in the DP bill were terse, simple and easy to understand This is crucially necessary if it is to take root in the hearts and minds of citizens," said Mr Leon.

# Invisible behi HANI D

C/Press

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**In the months leading up to the brutal assassination of the SACP's Chris Hani, a sinister and sophisticated disinformation campaign, discrediting both the ANC and Hani, took form. Senior SACP member JEREMY CRONIN questions whether the character assassination of Chris Hani was directly connected to his physical assassination.**

SOON after the assassination of Chris Hani, the SAP's Capt Craig Kotze announced that the arrested suspect was "a lone gunman acting without political motive" Was this plain stupidity, or something more sinister on the part of Kotze?

Just five months earlier, De Klerk's Minister of Justice, Kobie Coetzee, provided plenty of gunmen with a political motive "The ANC", said Coetzee in October last year, "would be well advised to sever its links with the Communist Party, and especially one Mr Hani "

Of course, the police are no longer opting for the "political motive" explanation. In the forthcoming trial of Waluz and the Derby-Lewis couple, the prosecution will argue for an ultra-right conspiracy

But is that the end of the Hani assassination story? Is there a first force lurking behind an ultra-right third force? Whatever our suspicions, we simply do not know at this stage

What we DO know (it is a matter of public record) is that in the months, weeks and literally days before his death, Chris Hani was the target of a sophisticated and extensive disinformation campaign

The April 10 assassination was not the first attempt on Hani's life In July 1992, alert shop workers in central Johannesburg warned Chris just in time that he was being tailed by a man cocking a gun When he realised he had been spotted, the man fled across Marshall Street He was picked up by two white males in a car which sped off at high speed, The number plates turned out to be false

Significantly, the would-be gunman on this occasion was not an East European immigrant nor a white farmer He was a young black male

## Disinformation

In the weeks before this attempt, an intense anti-ANC disinformation campaign had been lauched, in which Hani's name featured prominently The campaign centred around Patrick Dlongwana (also known as Hlongwane) of the so-called Returned Exiles Committee Dlongwana had been arrested by the ANC in Lusaka in 1987, after trying to infiltrate the organisation He was a notorious security policeman, and confessed to a lengthy and brutal career as an agent

Not long before the July 1992 attempt, Dlongwana appeared on SATV and threatened that his committee would kill MK leadership figures like Hani

What if the July 1992 attempt had succeeded? Would the SAP have failed to find a killer (as in the case of numerous other assassinations)? Or would they have conducted a seemingly professional investigation, finding that it was "just a former ANC member with a personal grudge"?

In the second half of last year, the focus of the disinformation changed Regime intelligence services produced an 18-page disinformation document, entitled "New political development – formation of South African People's Party (SAPP)" The document claimed that Hani, together with Winnie Mandela, was preparing a breakaway party, and that he had established a secret army in Zimbabwe, drawing on disenchanted elements of Apla and MK According to some sources, Hernus Kriel was involved in the disinformation document

Kriel's document came back to haunt him in parliament nine days after Hani's assassination In the face of international and national outrage, the De Klerk government was keeping a very low profile, hoping everyone would forget their own intense anti-Hani campaign in the preceding months But not everyone had forgotten Not everyone thought it was disinformation – Schalk Pienaar, for instance

On April 19, the CP's Schalk Pienaar asked in parliament why the government was suddenly so silent about Hani's renegade army in Zimbabwe As far as I know, Pienaar never got an intelligent answer

No wonder, this renegade army was a complete invention It was part of a broad disinformation campaign in which the government has used real (or fictional) Apla activities, and straightforward criminal attacks on white farms, to stir up white hysteria The real targets of this disinformation were not Apla or the PAC, but Holomisa and Hani Every [illegible] made to associate Hani, one way or [illegible] alleged Apla activities A whole series of [illegible] and journalists, plus the SABC, were [illegible]

**PLOTTED AGAINST . . . A disinformation campaign against Hani and the ANC wa[illegible]**

# 'le hand hind DEATH

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(252)

**d the ANC was launched by the government months before Hani's murder.**

sa and Hani Every attempt was Hani, one way or another, with activities A whole series of newspapers , plus the SABC, were active in this campaign

Just six days before Hani's asssassination, the Afrikaans-language Sunday newspaper, *Rapport*, again tried to blow fresh life into the Hani character assassi-

operation so as to derail the negotiations process" Some of the meetings were alleged to have happened in the Transkei

This disinformation continued to be spread in the days before Hani's assassination, despite his outright denials and despite his outspoken criticism of the PAC and Apla.

Against the background of the murder of whites in the Border regions and at Eikenhof, and against the regime-inspired hate campaign against the Transkei and Apla, everything was being done to link Hani, in some way, to anti-white terrorism

When a white, rightwing extremist was arrested shortly after Hani's slaying, a motive had been well established by months of systematic disinformation

But this was not the only anti-Hani dirty tricks campaign pulled in the days before his death

In November last year, the Goldstone Commission raided the secret headquarters of the SADF's Department of Covert Collection It seized five files which proved that Ferdi Barnard had been employed by Military Intelligence until December 1991, despite official denials Barnard, a convicted double murderer, had been employed to discredit MK The manner of discrediting, according to the Goldstone Commission, was to be by "linking it to criminal acts and crime syndicates"

This kind of dirty tricks campaign has continued, with or without Ferdi Barnard

For instance, on March 26, just two weeks before Hani's assassination, Slomon Mqanqeni and two others appeared in the Rand Supreme Court, charged with murder and bank robbery The three were alleged to be self-defence unit members with MK connections In a statement, Mqanqeni said the murder weapons were distributed to the group by Hani and Tokyo Sexwale

On the very evening of this statement being presented in court, Mqanqeni and his accomplices mysteriously escaped from Diepkloof Prison Two days later, after the convenient court appearance and the alleged escape, Hernus Kriel went on the rampage against MK in parliament He accused MK of being "nothing but criminals"

## Basson

The whole affair had all the hallmarks of a stage-managed operation The investigating officers into the bank robbery never once questioned, let alone contacted, either Hani or Sexwale Yet the police and the prosecutor were implicating them in extremely serious crimes These "public servants" along with their minister Kriel, seemed to be more intent on making political propaganda, than on investigating serious crime

On the eve of his murder, then, an intense campaign of character assassination had been directed against Hani Who was behind it?

In 1991 Major Nico Basson began talking to the media Basson was the former head of Military Intelligence's Comops (that is, disinformation) operation in the run-up to the Namibian independence elections in 1989

According to Basson "Discrediting political leaders in the opposition camp is a popular strategy, especially in the army In Namibia, one of the main themes was the discrediting of the senior leadership of the party In SA this strategy has also been used with great success "

Basson said that a sub-department of the army's propaganda department, "Kompas Vyand", had been working with great success over many years "in the planting and dissemination of false information" on, for instance, Winnie Mandela

De Klerk has failed to dismantle his dirty tricks department Under pressure from the Goldstone revelations, he has retired some operatives, but secretively and without taking the South African public into his confidence Parliament has recently voted R3,7-billion of taxpayers' money to the SADF's secret account What for?

Was the character assassination of Chris Hani directly connected to his physical assassination? Or did the two things just happen to come together in time?

Either way, those involved in the disinformation campaign against Hani must not be allowed to escape their share of blame for the terrible crime that has been committed

# Inquiry into soya contracts

S/Times 16/5/93

By SHARON CHETTY

A COMMISSION of inquiry has been appointed to look into contracts for supplies of soya food products to the Department of Correctional Services.

This follows revelations in the Sunday Times that businessman Chummy Von Lempke and his company, Protol — blacklisted by the State Tender Board — are bidding to regain a lucrative contract for the products after their tender was cancelled two years ago in the wake of allegations of corruption.

On Thursday afternoon State Expenditure Minister Amie Venter and Correctional Services Minister Adriaan Vlok issued a joint statement in Parliament saying that, due to the nature and intensity of allegations regarding the supply of soya products, President de Klerk had been asked to appoint a judicial inquiry. (252)

The matter was also under investigation by the Auditor-General, Mr Venter said.

# Testimony of terror

C/Press 16/5/93

## Boipatong: 32 plead not guilty to 45 murders

By MARTIN NTSOELENGOE

"WILLIAM, please look after my child"

These were the last faint words uttered by a dying mother to her husband moments after marauding hostel dwellers bludgeoned to death members of the household in Boipatong on June 17 last year

Thirty-two men have pleaded not guilty to 45 counts of murder and several charges of attempted murder

Aletta Moeti, bludgeoned to death in cold blood during the attack, could not be resuscitated by family members who hid under a bed during the raid

A state witness in the Delmas Circuit Court this week said she remembered hearing Aletta pleading with her husband to look after their child.

Dinah Moeti said she saw her relatives being attacked with pangas and an assortment of sharp instruments during the Boipatong massacre

She, Aletta's husband and another man hid under the bed when they heard footsteps in the yard

She said she warned others not to go outside the house "because those people have come" – referring to KwaMadala hostel dwellers

Dinah Moeti told Judge AJ Smit that at the time of the attack, Aletta Moeti was asleep on a bed with a 12-year-old child.

She hid under a bed when people outside started breaking window panes.

She said she could see two men in the house wearing blue overalls She also realised that there was a third person in the kitchen when she heard utensils breaking

Moeti said she came out from under the bed when a familiar voice called her name, and saw that her radio and video machine were missing

She said Aletta and the child were bleeding profusely.

Aletta died on the scene and the young girl spent two weeks at the Sebokeng Hospital, but has still not recovered fully.

Another young mother told the court how her relatives, including an eight-year-old girl, were brutally murdered by three Zulu-speaking men who were part of a group of about 200 others.

She also described how a 14-year-old girl was bludgeoned to death because she had no money to give to one of the attackers.

Alice Nonjoli said seconds before the attack she peeped through a window and saw a group of men dressed in blue overalls and wearing white headbands.

She grabbed her sleeping four-month-old daughter and hid in a wardrobe, but left the door slightly open.

Nonjoli said Fikile and Ndo were sleeping under the bed when two men entered the bedroom and demanded money from Fikile.

When she told them that her mother had the money, they dragged her from under the bed and one of the men shot her eight times at point-blank range.

After the attackers left, Alice found her mother-in-law groaning in pain on the dining-room floor She had been shot and stabbed.

Another state witness, Dinah Manyeka, said when she realised that an attack was about to take place, she tried to push her daughter out of the window but was stopped by the attackers.

Manyeka admitted that two weeks before the attack, a woman who was in love with a man at the Kwamadala Hostel, was necklaced by "comrades".

The case continues

# NP threat to withhold indemnity

**Political Correspondent**

THE government yesterday threatened to withhold permanent indemnity from the ANC's top leadership until the organisation formally abandoned the armed struggle and its "private army" uMkhonto we Sizwe (252)

A row erupted in Parliament yesterday when the ANC accused the government of trying to "hold hostage" leading members of the ANC

ANC-aligned MP for Sandton, Mr Dave Dalling, said during a debate on the extension of provision of the Indemnity Act for another 12 months that it was "outrageous" that the ANC leadership had not yet been given permanent indemnity In an attack on Justice Minister Mr Kobie Coetsee, he said the "nit-picking, obstructionist" minister was attempting to hold the Sword of Damocles over leading ANC members like Mr Joe Slovo, Mr Thabo Mbeki and Mr Steve Tshwete

Mr Coetsee immediately hit back, saying that "the Sword of Damocles is made of the ANC's reluctance to abandon the armed struggle"

# Commercial court 'user friendly'

B/DAY 17/5/93

STEPHANE BOTHMA 252

THE commercial court soon to be established in Johannesburg would be "user friendly", Transvaal Supreme Court Judge Ralph Zulman said at the weekend.

Addressing a seminar presented by attorneys Charles Cohen and Graham Cox, Zulman said the court would seek to eliminate the business community's dissatisfaction with the present litigation process. Businessmen perceived the present system as cumbersome, slow and expensive

He suggested it was unfair that the taxpayer, who paid for the present court system, was discouraged from using the system because of the high costs and slow pace of litigation

The decision to establish the new court was taken by Transvaal Judge President C F Eloff in consultation with fellow judges, advocates and attorneys practisingin the Witwatersrand local division

The new procedure would enable parties involved to apply to the Judge President to have their dispute classified as a commercial action A judge, with expertise in commercial matters, would be nominated to hear the matter well before the trial date by meeting with parties in chambers and dealing many of the matters currently dealt with in separate procedures.

Announcing the new system last month, Justice Minister Kobie Coetsee said the idea of the commercial court was to do away with unnecessary and time-consuming formalities as far as possible and bring disputes to trial on the essential issues, thus avoiding the delays of interim procedural disputes.

Coetsee, however, stressed that the introduction of the system did not mean commercial matters would get priority in the legal process

The procedure was based broadly on the practice followed by commercial courts in England

# Parliament probes MP over funds

CT 7/5/93

(251) Staff Reporter

A PARLIAMENTARY probe has been launched into the affairs of National Party MP Mr Dennis de la Cruz after two people made sworn statements alleging he claimed money to which he was not entitled

It is alleged Mr De la Cruz, MP for Ottery, used the names of two fictitious "assistants" to claim constituency expenses The matter has been referred to the Speaker of Parliament, Mr Eli Louw

Yesterday Mr Louw said he had received the sworn statements containing allegations against Mr De la Cruz and had referred them to the parliamentary disciplinary committee for investigation

Mr De la Cruz is overseas and could not be contacted for comment yesterday

## Sworn statement

Mr Charles Ford, a former boyfriend of the MP's daughter, Jacqui — a top model — alleged in a sworn statement that the MP used his name to obtain a "loan" from Parliament

In another affidavit Mrs Judy Lottering, who worked as his constituency assistant from August 1992, earning a monthly parliamentary allowance of R200, claimed Mr De la Cruz had discontinued her allowance but continued to draw the money using someone else's name

She said she had established that Mr De la Cruz drew money from Parliament using the names of two fictitious employees, Mr Charles Ford and Mr J Ross, a cardiac sufferer and asthmatic who was unemployable

The matter came to a head when Mrs Lottering contacted Mr C Elsbeth of the Department of Finance and Administration in Parliament on May 10 about the halting of her allowance

## Terminate services

Mr Elsbeth gave Mrs Lottering a copy of a handwritten letter from Mr De La Cruz, dated April 8, in which he instructed the finance department to terminate her services and instructed Parliament to end the services of Mr C Ford of Elfindale and Mr J Ross, whose address was not given

It was later established Mr Ross had never been employed by Mr De la Cruz, and Mr Ford denied he had ever been employed by the MP

**NEWS** Inkatha's call against "serial killings" ● Security forces raid Soweto squatter camps

# IFP insists MK should disband

Sowetan 17/5/93

## ■ PLEA TO GOLDSTONE Probe killing of our members — Inkatha

THE Inkatha Freedom Party has reiterated its call for Mr Justice Richard Goldstone to investigate the "serial killing" of IFP members.

At a meeting in Ulundi at the weekend, the IFP central committee expressed its concern that the issue of Umkhonto we Sizwe (the African National Congress' armed wing) was being submerged by other considerations and was not being given the priority it deserved.

The committee noted the extent to which "serial killing of the IFP and violence against the party is undertaken to weaken our negotiating position".

It said the disbandment of private armies, including MK, should be given the highest priority at the multiparty talks and resolved to instruct Inkatha's negotiation team to take "whatever steps necessary" to establish this.

"Repeated requests already made to Mr Justice Goldstone to investigate the status of the inquiries into the deaths of IFP members (will) be pursued."

The committee once again endorsed the need for a federal system for the new South Africa and reiterated that regional powers and boundaries needed to be in place before an election.

(252)

It noted the need, from all parties, for compromises "which will not negate essential democratic principles" — *Sapa*

REPUBLIC OF SOUTH AFRICA

REPUBLIEK VAN SUID-AFRIKA

# Government Gazette
# Staatskoerant

Vol 335 PRETORIA, 17 MAY MEI 1993 No. 14819

## PROCLAMATION

*by the*

*State President*

*of the Republic of South Africa*

**No. 42, 1993**

(252)

INDEMNITY ACT, 1990

EXTENSION OF PERIOD OF OPERATION

Under subsection (2) of section 4 of the Indemnity Act, 1990 (Act No 35 of 1990), and with the concurrence of all three Houses of Parliament, I hereby, in relation to the said Act as a whole, extend the period referred to in subsection (1) of that section for a further period of one year ending on **17 May 1994.**

Given under my Hand and the Seal of the Republic of South Africa at Cape Town this Fourteenth day of May, One thousand Nine hundred and Ninety-three

**F. W. DE KLERK,**

State President

By Order of the State President-in-Cabinet

**H. J. COETSEE,**

Minister of the Cabinet

## PROKLAMASIE

*van die*

*Staatspresident*

*van die Republiek van Suid-Afrika*

**No. 42, 1993**

WET OP VRYWARING, 1990

VERLENGING VAN TYDPERK VAN WERKING

Kragtens subartikel (2) van artikel 4 van die Wet op Vrywaring, 1990 (Wet No 35 van 1990), en met die instemming van al drie Huise van die Parlement, verleng ek die tydperk bedoel in subartikel (1) van dié artikel hierby, met betrekking tot genoemde Wet in die geheel, vir 'n verdere tydperk van een jaar wat op **17 Mei 1994** eindig

Gegee onder my Hand en die Seel van die Republiek van Suid-Afrika te Kaapstad, op hede die Veertiende dag van Mei Eenduisend Negehonderd Drie-en-negentig

**F. W. DE KLERK,**

Staatspresident

Op las van die Staatspresident-in-Kabinet

**H. J. COETSEE,**

Minister van die Kabinet

## GOVERNMENT NOTICE

## DEPARTMENT OF JUSTICE

**No. 882** (252) **17 May 1993**

NOTICE BY THE STATE PRESIDENT OF THE REPUBLIC OF SOUTH AFRICA

NOTICE OF TEMPORARY IMMUNITY UNDER THE INDEMNITY ACT, 1990 (ACT No 35 OF 1990)

Whereas I am of the opinion that it is necessary for the promotion of peaceful constitutional solutions in South Africa, I hereby under the power vested in me by

## GOEWERMENTSKENNISGEWING

## DEPARTEMENT VAN JUSTISIE

**No. 882** **17 Mei 1993**

KENNISGEWING VAN DIE STAATSPRESIDENT VAN DIE REPUBLIEK VAN SUID-AFRIKA

KENNISGEWING VAN TYDELIKE VRYSTELLING KRAGTENS DIE WET OP VRYWARING, 1990 (WET No 35 VAN 1990)

Nademaal ek van oordeel is dat dit nodig is vir die bevordering van vreedsame konstitusionele oplossings in Suid-Afrika, verleen ek hierby kragtens die

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## INHOUD



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section 1 (1) of the Indemnity Act, 1990 (Act No 35 of 1990), unconditionally grant to the persons specified in the Schedule, immunity referred to in section 1 (2) of the aforementioned Act for the period from 18 May 1993 up to and including 17 May 1994

Given under my Hand and the Seal of the Republic of South Africa at Cape Town this Fourteenth day of May, One thousand Nine hundred and Ninety-three

**F. W. DE KLERK,**
State President

By Order of the State President-in-Cabinet

**H. J. COETSEE,**
Minister of the Cabinet

bevoegdheid my verleen by artikel 1 (1) van die Wet op Vrywaring, 1990 (Wet No 35 van 1990), onvoorwaardelik vrystelling soos vermeld in artikel 1 (2) van voormelde Wet, aan die persone in die Bylae vermeld, gedurende die tydperk vanaf 18 Mei 1993 tot en met 17 Mei 1994

Gegee onder my Hand en die Seel van die Republiek van Suid-Afrika te Kaapstad, op hede die Veertiende dag van Mei Eenduisend Negehonderd Drie-en-negentig

**F. W. DE KLERK,**
Staatspresident

Op las van die Staatspresident-in-Kabinet

**H. J. COETSEE,**
Minister van die Kabinet

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## SCHEDULE • BYLAE

APPALRAJU, Premi.
BUNTING, Brian Percy.
CHOABI, Seretse.
DE BRUYN, Sophia Theresa
DOLNEY, Helen
GANA, Martha Constance
HLUBI, Thuthukani.
JELE, Joe.
JORDAN, Pallo
KGOSITSILE, Keorapetse.
LEKOTA, Zephania
MADUNA, Penuell
MAGUNYA, Ben
MAKGOTHI, Henry
MALEBE, Edwin
MASEKELA, Barbara
MASETLE, Dudu
MAYSON, Cedrick Radcliffe
MFENYANE, Filarida Chramova
MKANI, Sandile
MOKWENA, Timothy
MOLATHANYI, Tefo
MOLEFE, Jacqueline
MOLOTO, Papie Otukile
MONARENG, Oupa Ephraim
MORATHI, Tseke Cybrite
MOTSWENYANE, Dedanizizwe Joseph.
NDLOVU, J
NHLANHLA, Mmabatho
NOKWE, Fundile
NOMOYI, Lizo
PHEMBA, Bonakele.
RADEBE, Vasco
SELEBI, Jackie/SELEBI, Jacob Sello
SKWEYIYA, Sidney Temba
STOFILE, N
ZUMA, Jacob

BHENGU, Sibusiso
BUNTING, Sonia Beryl
COLVIN, Louise
DLAMINI, Stephen
ETHMAHILL, Aboobaker.
GODDEN, Edgar.
HUSSEIN, Mohamed.
JOBODWANA, Zingisile Mtwezinhle
KASRILS, Ronald.
KHUMALO, Aubrey M
LERUMO, Thabo
MAFISA, Rose Kgopotso
MAJOLA, Lulu.
MAKHASI, Edward
MARCUS, Gill
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MBEKI, Thabo
MJCABA, Andile
MODISE, Joe.
MOLAPO, Cyril
MOLEFE, Dikgang Castro
MOLOI, Ntseke
MOLOTO, Busisiwe
MONGWALETSE, Leslie
MOTLATSI, Hori
MZIMELI, Sipho
NETSITENZHE, Joel
NJANANA, Rhoda/PHETLA, Pricilla.
NKONDO, Sankie
NKONDO, Zinjiva.
PAPERS, Patrick
QAWU, Pumla Desiree
SANGWENI, Stanley
SHOPE, Gertrude
SISULU, Max
SLOVO, Joe
STOFILE, Joyce
ZULU, Lindiwe

## IMPORTANT ANNOUNCEMENT

# *Closing times* ***PRIOR TO PUBLIC HOLIDAYS*** *for*

# LEGAL NOTICES
# GOVERNMENT NOTICES 1993

*The closing time is* ***15:00*** *sharp on the following days:*

- **31 March**, Wednesday, for the issue of Thursday **8 April**
- **7 April**, Wednesday, for the issue of Friday **16 April**
- **13 May**, Thursday, for the issue of Friday **21 May**
- **9 December**, Thursday, for the issue of Friday **17 December**

**Late notices will be published in the subsequent issue. If, under special circumstances, a late notice is being accepted, a double tariff will be charged**

**The copy for a SEPARATE *Government Gazette* must be handed in not later than three calendar weeks before date of publication**

## BELANGRIKE AANKONDIGING

# *Sluitingstye* ***VOOR VAKANSIEDAE*** *vir*

# WETLIKE KENNISGEWINGS
# GOEWERMENTSKENNISGEWINGS 1993

*Die sluitingstyd is stiptelik* ***15:00*** *op die volgende dae:*

- **31 Maart**, Woensdag, vir die uitgawe van Donderdag **8 April**
- **7 April**, Woensdag, vir die uitgawe van Vrydag **16 April**
- **13 Mei**, Donderdag, vir die uitgawe van Vrydag **21 Mei**
- **9 Desember**, Donderdag, vir die uitgawe van Vrydag **17 Desember**

**Laat kennisgewings sal in die daaropvolgende uitgawe geplaas word. Indien 'n laat kennisgewing wel, onder spesiale omstandighede, aanvaar word, sal 'n dubbeltarief gehef word**

**Wanneer 'n APARTE *Staatskoerant* verlang word moet die kopie drie kalenderweke voor publikasie ingedien word**

# Speculation on SADF, MK amalgamation is quashed

B/DAY 17/5/93.

BILLY PADDOCK

THE ANC and the Defence Ministry yesterday moved to dampen speculation that 12 000 members of the ANC's armed wing Umkhonto we Sizwe would be incorporated into the SADF

A Defence spokesman said that Sunday newspaper reports stating that incorporation, up to general level, could happen within weeks was "in essence a synopsis of ideas, possibilities and speculation which are circulting around the exploratory talks"

MK commander-in-chief Joe Modise — tipped by Rapport as an SADF general — said while much progress had been made in the bilateral talks with the SADF and the SAP, no finality had been reached.

The Ministry agreed that no finality had been reached It said that when Defence Minister Kobie Coetsee referred to the incorporation of 12 000 MK members during a speech in the Free State, it would have been as a result of speculating that if there were to be a single joint force, this is what it could mean

"It is known that exploratory talks over a future defence force is taking place between the SADF and others — not only the ANC," he said

"It is only logical that changes in the SADF have to be made and all military and paramilitary capabilities should be consolidated as soon as possible .."

It is understood that the bilateral meetings during the past two years have been discussing a new defence force and MK members' role It is also understood that not all MK members can be incorporated, because of financial constraints

The ANC is also still insisting on some form of joint control and it is understood that until all the security forces, including those of the TBVC and self-governing states are included, no move will be made on incorporating MK into the SADF.

The decisions or recommendations of the bilateral talks will also have to go to the multiparty negotiations forum to be discussed and agreed upon as part of a transitional executive council before a new force can become a reality

# Inkatha in new call for Goldstone probe

B/DAY 17/5/93.

ULUNDI — Inkatha has reiterated its call for Judge Richard Goldstone to investigate the "serial killings" of Inkatha members

At a meeting in Ulundi at the weekend, the Inkatha central committee expressed its concern that the issue of Umkhonto we Sizwe was being submerged by other considerations and not given the priority it deserved

The committee noted the extent to which "serial killing of Inkatha members and violence against the party is undertaken to weaken our negotiating position"

It said the disbandment of private armies, including MK, should be given the highest priority at mulitparty talks, and resolved to instruct Inkatha's negotiation team to take "whatever steps are necessary"

The committee again endorsed the need for a federal system for the new SA and reiterated that regional powers and boundaries should be in place before an election — Sapa

# 'Policeman ordered bullets destroyed'

Star 17/5/93

By Mckeed Kotlolo
Pretoria Bureau

252

The Boipatong massacre trial took a dramatic turn on Friday when a police lieutenant told the court his senior had ordered the destruction of eight 9 mm bullet shells and heads found at the scene on June 17 last year.

Lieutenant D C van der Merwe of Vereeniging police told the Delmas Circuit Court that he was at the Sebokeng mortuary on June 18 1992, when a woman special constable gave him five bullet shells and three undamaged bullet heads

Van der Merwe said the shells and heads were destroyed on November 20 1992 at the instruction of a Major van Wyk, according to a police report book

He said Van Wyk had since retired from the police

Thirty-two KwaMadala Hostel inmates have pleaded not guilty to 45 counts of murder, one of public violence, 22 attempted murder and 85 of malicious damage to property, arising from the massacre

He said the constable, who was at the mortuary to identify a corpse, told him that the shells and heads were found by a witness to the murder of three family members at 765 Hlubi Street in Boipatong by three armed men.

The lieutenant said since he was not a member of the team investigating the Boipatong massacre, he submitted the remains to the Vereeniging police station where they were recorded in the SAP 13 book.

He told the court that through his knowledge of explosives, ammunitions and guns, he immediately identified the objects as 9 mm bullets.

During cross examination, Van der Merwe conceded that the police used 9 mm bullets but said he did not know if they were standard police bullets

Asked what had happened to the evidence, he said a report in the SAP 13 stated that they were destroyed on November 20 last year.

Responding to a question by Mr Justice Smit, the lieutenant said as far as he knew the shells and heads were not subjected to ballistic tests

"Had they been ballistically tested, they could have been valuable evidence," he added

Earlier in the case, Alice Nonjoli, whose mother-in-law, sisters-in-law Ndo (14) and Fikile (8) were killed on the night of the attack, told the court about eight bullet remains she found in the house that night

The case is proceeding

# Ex-minister released in 'peace' deal

(252)

CT 18/5/93

Political Staff

LIFE prisoner and senior Inkatha official Bekizizwe Samuel Jamile was one of six long-term prisoners released yesterday in terms of the Further Indemnity Act, the Ministry of Correctional Services announced last night

Jamile was deputy Minister of the Interior in KwaZulu when he was sentenced to life in jail just less than two years ago

The ministry said he had complied with the requirements of the act, which were that his transgression was committed with a political motive and that the release would promote reconciliation and peaceful solutions

## 20-year sentence

Jamile and his co-accused, Msizi Hlophe, were convicted by Mr Justice Mitchell in the Natal Supreme Court on May 28, 1991, of the murder of Mr Joseph Khumalo and the attempted murder of Mr Khumalo's fiancée The couple were Jamile's tenants at the time The killing took place on April 5, 1987

Another Inkatha official, Madodeni Wilbert Biyase, who was serving a 20-year sentence for five counts of murder and three of attempted murder, was also released He was member of the KwaZulu Legislative Assembly for Umzinto when sentenced The other men released were P Tikanie, believed to be an ANC member, P J J Leeb, thought to be a right-winger and H M Chego and J M Chego

Star 18/5/93

# IFP group barred at court

By Michael Sparks

About 120 Inkatha Freedom Party supporters gathered outside the Rand Supreme Court yesterday but were prevented from entering the building, where Michael Phama appeared, because many were carrying cultural weapons.

On Friday Phama pleaded not guilty to 47 charges, including 21 of murder and 19 of attempted murder, after an attack on a group of Tokoza hostel dwellers in 1991.

Four women IFP supporters were stabbed on Friday when knives were used and shots fired as alleged ANC and IFP supporters clashed after the hearing.

The antagonists dispersed after policemen fired teargas.

Police said they arrested two ANC supporters with knives and an IFP supporter with a firearm

Yesterday a smaller group of IFP supporters entered the public gallery of the court, but had to leave to be searched once police saw some were carrying knives

The supporters went outside to join the other IFP supporters, and police found four knives in the gallery.

After the IFP supporters were removed, the evidence was held in camera.

A stand-off developed outside the court, where the IFP supporters gathered on one section of the grass on Pritchard Street while about 200 ANC supporters stood on the other side of the entrance. Police and newsmen were at the court entrance, between the groups.

The Wits/Vaal Peace Committee helped to forge an agreement with police and the two groups whereby the ANC agreed to leave by mid-afternoon, followed soon afterwards by the IFP.

Both groups dispersed, apparently without incident.

Phama was allegedly part of a group who fired AK-47s on a group of 800 people going to the Tokoza stadium to attend a meeting organised by the East Rand Hostel Dwellers' Association on September 8 1991.

The gang allegedly also attacked commuters on February 26 1992, and Phama allegedly fired on traffic officers after being caught in a speed trap on March 27

The hearing continues

From Page 1

the rival organisations who clashed outside the court building

Four women were stabbed in the incident and taken to hospital

There was a heavy police presence outside the building yesterday and in the

February 26 last year, and fired on a group of traffic officers the following month after going through a speed trap

The trial is being heard by Judge M C de Klerk and two assessors

● Picture. Page 3

# Young Boipatong survivor identifies alleged attacker

B/Day 18/5/93

STEPHANE BOTHMA

DELMAS — A matriculant, who lost three family members and narrowly escaped death himself during last year's massacre in Boipatong, yesterday identified one of the KwaMadala Hostel residents as his attacker

The young man, who may not be named following a court ruling that residents of Boipatong testifying in the trial may not be identified, was the first of eight witnesses the State has called so far

The youth said he was stabbed in his side with a spear, but managed to escape to safety When he returned home later, he found his sister, brother and another family member dead

He pointed out Mncedisemi Sibongelemi Mkhize as the man who had stabbed him

The youth, a Zulu, said he had no idea why they were attacked and said his family had no political affiliations

When one of the attackers dragged his younger sister out of the house, he (the attacker) shouted "come dog", but said nothing else, the court heard

Thirty-two former residents of the KwaMadala Hostel near Boipatong, in the Vaal Triangle, have pleaded not guilty to 45 charges of murder, attempted murder and malicious damage to property.

Earlier, the State withdrew murder charges against 15 other hostel dwellers, bringing the number of suspects freed since the massacre to 42

The witness, cross-examined by two advocates for several hours on the identity of Mkhize, said he had no doubt in his mind as to the identity of the alleged murderer

"If somebody does something bad to you, you never forget his face," he told defence advocates Vic Botha and Rian Strydom

Another witness, who suffered no injuries but witnessed the large group of attackers roaming the Boipatong streets, said he saw a group of men entering the house of Paulina Dlamini, where the old lady lived with her grandchildren

The group later left the house and when the witness investigated, he had found a very young girl, Maria, dead in the living room and Paulina severely injured in her bedroom She was stabbed in her upper leg, the court heard.

At another house, he found a young boy with half his face hacked away and the boy's mother stabbed in the back and shot in the neck

His evidence continues today

# Slovo plot: man in court

MARIANNE MERTEN

FORMER SA Air Force radio technician John Beck will be held in Pretoria Central maximum security prison until he appears in court next week in connection with a plot to kill SACP chairman Joe Slovo

Beck appeared in the Johannesburg Magistrate's Court for the first time yesterday He was unrepresented and was not asked to plead The case was postponed to May 25

Senior prosecutor Hans Wolfaardt asked for the postponement, and requested that Beck be remanded in custody in maximum security

B/Day 18/5/93

Investigating officer Sgt Chris Lombard of the Crime Intelligence Service said yesterday it was "a very difficult case in the sense that there were many little points to prove"

The police had to act quickly after Beck was named by an informer in connection with a plot to kill SACP chairman Joe Slovo last week, he said

Beck is being held under section 50 of the Criminal Procedure Act

# Public searched after court alert

(252)

B/Day 18/5/93.

SUSAN RUSSELL

POLICE body-searched members of the public attending the trial of an ANC man charged with 21 counts of murder in the Rand Supreme Court yesterday after finding a number of knives under the benches in the public gallery

- The court was cleared before procedings got under way, after the police were alerted to the fact that some people in the public gallery were armed
- Four knives were found under the benches in the public gallery.
- The trial of 45-year-old Michael Phama, which began last Friday, has already led to confrontations between Inkatha and ANC supporters outside the Rand Supreme Court building
- After the trial adjourned on Friday the police used teargas to disperse members of the rival organisations who clashed outside the court building
- Four women were stabbed in the incident and taken to hospital
- There was a heavy police presence outside the building yesterday and in the second floor courtroom where Phama was on trial. A group of about 100 Inkatha members carrying shields and knobkerries chanted and sang outside the building for part of the morning

Phama has pleaded not guilty to 47 charges, which include 21 counts of murder and 19 of attempted murder.

Most of the charges arise out of his alleged involvement in an attack on Thokoza hostel residents in 1991

Phama was allegedly part of a group armed with AK-47s which fired on hostel residents on their way to a meeting on September 8 1991

He was also allegedly part of a group which fired on commuters in a minibus on February 26 last year, and fired on a group of traffic officers the following month after going through a speed trap.

The trial is being heard by Judge M C de Klerk and two assessors

● Picture: Page 3

# Link between violence on trains and politics

Sowetan 18/5/93

TRAIN violence was inextricably linked to political violence and there could be no separate approach to its solution, according to the Goldstone Commission's final report on train violence (252)

However, a question mark hung over the involvement of a so-called "third force" in train violence

The commission found in its report released yesterday that political rivalry between the African National Congress and the Inkatha Freedom Party had resulted in intolerance and enmity between their followers which had spilled over to train violence (359)

The commission found there was no evidence that either the ANC or IFP had actively encouraged the perpetration of train violence but recommended that leaders of both organisations educate their followers in political tolerance

In its interim report released in July last year, the commission stated that whenever a group of attackers was identified they turned out to be hostel dwellers,

## ■ Question mark over 'third force'

mainly Zulu-speakers, traditionally linked to the IFP.

The final report, however, said: "There is no foundation for any finding that hostel residents were mainly responsible for the attacks on commuters.

"It is clear that attacks emanate from hostels as well as from townships Township residents are regarded as ANC supporters or Xhosa speakers."

The report recommended that attempts be made to involve hostel residents and township inhabitants in joint forums to create better understanding and to address their negative perceptions of each other.

Organisations involved should exercise strict control over supporters and unacceptable behaviour should be disciplined, the report said

Regarding allegations that a "third force" might be responsible for the train attacks, no one came forward with information says the commission —

NATIONAL

# Buthelezi worried as killers freed

(252)

ARG 18/5/93

## ☐ Prisoners reclassified

**The Argus Correspondent**

DURBAN. — Kwazulu Chief Minister Chief Mangosuthu Buthelezi is worried about the release from jail of former Kwazulu deputy Interior Minister Mr Samuel Jamile and former Kwazulu Legislative member Mr Wilbert Madodeni Biyase.

Mr Jamile was released after serving only two years of his life sentence for murder and attempted murder.

Mr Biyase was serving a 20-year sentence onfive counts of murder and three of attempted murder.

Chief Buthelezi told the Kwazulu Legislative Assembly yesterday that Correctional Services Minister Mr Adrian Vlok had informed him President De Klerk had pardoned Mr Jamile and Mr Biyase.

He said that although he could not condone their actions, he was happy that they had been released. But he then expressed concern at the furore that would ensue from their release.

Although no official confirmation of Mr Jamile's release was received, his lawyer, Mr Johan Jooste, said the release was a fact.

He said Mr Jamile's release followed an application lodged to have him considered a political prisoner. Mr Jamile qualified in terms of the definition of the Act, he said

Mr Jamile and co-accused were sentenced by Mr Justice Mitchell in the Natal Supreme Court on May 28, 1991.

In a sensational trial Mr Jamile was found guilty of the murder of Mr Joseph Khumalo and the attempted murder of Mr Khumalo's fiancee Miss Thokozile Shabalala, at Mamba Valley in the greater Durban area on the night of April 5, 1987. The couple were Mr Jamile's tenants at the time.

Co-accused Msizi Hlophe was convicted of the murders of Mr Zazi Khuzwayo, who was shot in his shop at Clermont in 1987, and Clermont taxi owner Mr Nicholas Mkhize, who was shot in his car.

Mr Jamile was sentenced to life imprisonment and Hlophe to 22 years.

They subsequently tried to appeal, but the Appeal Court in Bloemfontein refused them

# Goldstone: tolerance the key

(252)

RAY HARTLEY

TRAIN killings and political violence are inextricably linked and political organisations need to teach their members political tolerance to break the cycle of violence, the Goldstone commission says

In its final report, the commission's train violence committee recommended yesterday that organisations exercise strict control over their followers "Unacceptable behaviour by their followers in the conduct of political activities should be disciplined. The political rivalry between the ANC and Inkatha for support at grassroots level has resulted in distrust, intolerance and enmity between their followers."

Noting the continued lack of confidence in the SAP, it said "The SAP is still perceived to be an instrument of oppression maintaining a society divided in consequence of racial discrimination Furthermore, it is felt that the SAP is not community based or oriented and, for many South Africans, the SAP is not perceived as a fair, objective or friendly institution"

The SAP had committed itself to total impartiality, minimum force and cost-effective management practices "The primary aim of the (SAP's) community relations division should be to ensure the acceptance of the SAP by the local communities Leaders and their organisations should make their followers aware of this They should encourage them to participate in the new forums and structures created for their benefit by the SAP."

Other recommendations included that the SAP address "the question of reluctant witnesses" by making certain that cases were properly investigated to ensure the conviction of train killers and by explaining witness protection programmes

The committee found no evidence of third force involvement in train violence

B/Day 19/5/92

# Bisho charges still to be decided

Star - 18/5/93

By Esther Waugh
Political Correspondent

No final decision has yet been made on the prosecution of 70 people implicated in the Bisho massacre of at least 28 demonstrators, according to Ciskei Attorney-General Willem Jurgens

However, Jurgens said it was "inappropriate to identify individuals at this stage".

The preliminary indictment lists 70 people, including ANC and SACP leader Ronnie Kasrils, and 69 members of the Ciskei Defence Force (CDF)

The first accused is the field commander — a lieutenant-colonel — of all CDF personnel deployed on September 7 1992 who allegedly acted beyond his authority by:

- Not ordering troops to fire only single shots at a breakaway group from the stadium.
- Allowing troops not to shoot at demonstrators other than those in the breakaway group.
- Allowing grenades to be fired.

According to the indictment, the officer requested permission by radio from CDF deputy commander Colonel Dirk van der Bank to fire on a breakaway group, led by Kasrils

Van der Bank relayed the request to CDF commander Brigadier Marius Oelshig, who gave permission for single shots to be fired at the group

The indictment said permission to order CDF troops to shoot was "obtained and given on false information". It was preliminary recommended that the lieutenant-colonel be charged with murder, attempted murder and culpable homicide.

According to the draft charge sheet, Kasrils is to be charged with culpable homicide and was "the direct precipitating cause of the shooting"

The indictment said that by leading the group out of the stadium, Kasrils. "... outflanked not only the Ciskeian Police ... neutralising them as the primary law enforcement agency, but also the personnel of the National Peace Secretariat who were in front of the police line, thus bringing the group into direct and sudden confrontation with the CDF".

# Abuses in ANC camps possible, inquiry told

Star 18/5/93

By Mokone Molete

The ANC's head of security during its years in exile yesterday admitted that human rights abuses could have taken place in the organisation's camps, but said this was not normal policy.

Mzwandile Piliso told a commission of inquiry led by Dr Sam Motsuenyane that the ANC had a code of conduct which did not encourage the use of torture to obtain information.

Admitting, under questioning, that abuses could have taken place, Piliso explained that the organisation operated under what it perceived to be conditions of war He said many agents (of the South African Government) presented problems to the ANC.

"Under normal circumstances these agents were interviewed, except in 1981 when we heard that there was a plan to overthrow the leadership of the ANC. In that instance there were cases of people being manhandled"

He pointed out that those under his command were expected to adhere to a strict code of conduct which discouraged abuses.

Referring to Angola's infamous ANC Quatro camp, linked to many allegations of torture, he said a tribunal set up by the organisation to review complaints had been slow to act, due to work pressure.

Earlier, former ANC secretary-general Alfred Nzo told the commission that he never found the Quatro camp to be a bone of contention among inmates.

# Negotiations at critical juncture

Star 18/5/93

By Esther Waugh
Political Correspondent

**Negotiations enter a critical phase today with the start of the first substantive constitutional talks in the resumed negotiations process.**

The meeting of the Negotiating Council at the World Trade Centre will discuss preliminary reports from seven technical committees

These reports deal with constitutional matters, including self-determination and the form of state, violence, a transitional executive council (TEC), fundamental human rights during the transition, an interim constitution, independent media, electoral commissions and the repeal of discriminatory laws.

A proposal by the committee on constitutional matters that a regional commission be formed to determine the boundaries of regions is expected to be discussed in the 26-party negotiating council

The negotiating council will have to decide today how these reports are to be discussed.

However, Constitutional Development Minister Roelf Meyer has cautioned that no decisions, "with a few exceptions", will be taken.

Participating groups have to submit their submissions to the technical committees by 5 pm tomorrow and the discussions will be open-ended until all submissions have been received

Negotiators believe that the value of the submissions is that parties will now be forced to make their positions known publically

ANC secretary-general Cyril Ramaphosa has indicated that his organisation will table a resolution today on the Joe Slovo assassination plot

PAC secretary-general Benny Alexander predicted a heated debate on the reports from the technical committees on the TEC and constitutional matters

# I nursed my hostage. Beuthin

# Review amnesty rules, says DP

THE Democratic Party has called for an urgent review of the amnesty provisions allowing the release of political prisoners.

The call follows the release of six prisoners in terms of the Further Indemnity Act.

They include S B Jamile, a former Kwazulu Deputy Internal Affairs Minister sentenced two years ago to life imprisonment for murder.

DP spokesman Peter Gastrow said: "It is shocking that these murderers have been released when the country is experiencing an unprecedented wave of lawlessness."

He said amnesty provisions had been stretched far beyond what was originally intended and that politics only played a marginal or non-existent role "in the commission of their crimes".

— Sapa (252) ARG 18/6/93

# Six murderers freed early

Star 18/5/93

(252)

By Chris Whitfield
Political Correspondent

CAPE TOWN — Former KwaZulu deputy minister Samuel Jamile has been freed in terms of the controversial Further Indemnity Act after serving only two years of a life sentence for murder and attempted murder

The Correctional Services Ministry announced yesterday that Jamile was among six prisoners — all convicted of murder — who were freed.

Jamile was sentenced to life in May 1991 for the April 1987 murder of Joseph Khumalo and attempted murder of Thokozile Shabalala.

The others freed yesterday were.

● M W Biyase, understood to be an IFP supporter convicted of five murders and two attempted murders in Natal's Msinsini district and sentenced to an effective 20 years' jail

● P Tikanie, understood to be an ANC supporter convicted of murder in Uitenhage and sentenced to 10 years' jail

● H M Chego, thought to be a UDF supporter sentenced to 24 years in prison after being convicted of two murders with extenuating circumstances in February 1986

● J M Chego, understood to be an UDF supporter sentenced to 19 years in prison for murder with extenuating circumstances in February 1986.

● P J J Leeb, who according to The Star's files, claimed he had been a member of the Special Forces and later of the CCB, was sentenced in November 1989 to eight years in jail for murdering a black man

Last night Democratic Party law and order spokesman Peter Gastrow called on "the public, the police and the judiciary to jointly protest these releases".

He said "it is shocking at this stage of rampant lawlessness that some of the hardest murderers are let out prematurely".

The statement issued by the Correctional Services Ministry yesterday said the National Council on Indemnity had decided the six complied with the requirements of the Further Indemnity Act, "namely that their transgressions were committed with a political motive and that their release could promote reconciliation and peaceful solutions".

It said the six had committed their crimes "long before the cut-off date of October 8 1990, some even as far back as 1986".

The statement said that the Goverment would "like to reiterate that the release of these persons must in no way be seen as a condonation of the serious crimes which they committed"

# Space council to fit bill

CT 19/5/93 (252)

Political Staff

SOUTH AFRICA may not yet have the capacity to build a space ship, but it will at least have legislation to regulate the possibility soon.

The legislation, the Space Affairs Bill, provides for the establishment of a Council for Space Affairs to "regulate all space activities" in line with international conventions.

The process would be motivated by free-market principles with minimum interference by the council, the bill's memorandum said

Present space activity is restricted to a space-tracking agency at Hartbeespoort Dam.

The council would co-ordinate and promote the space industry by co-operating with interest groups and liaising with international bodies.

The council will comprise a chairman, two representatives of the space industry and other members deemed necessary by the Minister of Trade and Industry. Each will serve a maximum term of five years.

# 'War' in jails over releases

CT 19/5/93

THE Democratic Party yesterday claimed a "civil war" was brewing in prisons over the government's early release of political offenders, including murderers.

DP Justice spokesman, Mr Tony Leon, said that the latest batch of releases under the Further Indemnity Act were tantamount "to a game of musical chairs".

He said prisoners left behind were in a state of rage and were seeking reclassification.

Among the six prisoners released this week was the former KwaZulu Deputy Minister of the Interior, Bekizizwe Samuel Jamile, who was jailed for life less than two years ago after being convicted of murder and attempted murder.

DP law and order spokesman Mr Peter Gastrow said it was shocking that the "hardest murderers" could be released on apparent "political" grounds He noted that the trial judge had found in Jamile's case that political differences between Inkatha and the then-UDF had not been the motive for the murder.

- The Ministry of Correctional Services said this week that the latest releases complied with the requirements of the act
- Lawyers for Human Rights yesterday criticised Jamile's release, claiming he was freed in spite of having committed crimes without a political motive, and the ANC announced it was "following certain leads", possibly about irregularities, surrounding the release. — Political Correspondent, Sapa

# Shock, outrage as killer set free

By Cyril Madlala

Lawyers for Human Rights (LHR) yesterday criticised the release from prison of former KwaZulu Minister Samuel Jamile under the Further Indemnity Act, claiming he was freed in spite of having committed crimes without a political motive.

And KwaZulu Chief Minister Mangosuthu Buthelezi expressed concern in the Legislative Assembly that Jamile's release could cause a furore.

Jamile (63) was granted amnesty as a political prisoner on Monday, although the trial judge found his deeds were not politically motivated.

The herbalist, politician and IFP central committee member was sentenced to life imprisonment in 1991 for the murder of his former tenant, Joseph Khumalo, and the attempted murder of Khumalo's fiancee, Thokozile Shabalala.

Police sources said they were "shocked and disgusted" at his release. They felt sure it would deter witnesses from co-operating in similar trials in future.

In a statement, LHR spokesman Andries Nel expressed the organisation's "outrage at the latest example of the Government's inept and dishonest handling of the political prisoner release process".

He accused the Government of "releasing criminals who happen to have right-wing or security force links to counter the releases of left-wing prisoners".

"We are also curious as to what the Government thinks about the impact on peace and reconciliation that the release of Barend Strydom (convicted of killing several blacks in Pretoria in 1988) has had."

# Quatro primitive, says ANC official

Star 19/5/93

By Mokone Molete

The present head of ANC security, Joe Nhlanhla, demanded that the infamous Quatro camp in Angola be revamped before he accepted the post, a hearing into alleged ANC human rights abuses heard yesterday.

Nhlanhla told the ANC-appointed Motsuenyane Commission of Inquiry sitting at the FNB Stadium in Crown Mines, Johannesburg, that he was offered the position of head of security by then-ANC president Oliver Tambo

He said he made it a condition of his appointment that the camp — cited in numerous reports as the centre of human rights abuses against ANC dissidents — be upgraded

Asked what was wrong with the camp, he said "The way it was built was primitive. The possibility of expansion was non-existent We needed a big place to create facilities for recreation. It was created almost impromptu."

Joe Nhlanhla . . . demanded that ANC camp be revamped.

Nhlanhla said reforms were then introduced. Among these was the right of inmates to demand medical care and generally to be able to air their complaints.

Earlier, his predecessor as head of security and intelligence, Mzwandile Piliso, said that apart from ventilation in the cells, there was nothing wrong with the camp.

Asked whether he was aware of any list of ANC members who had disappeared, resigned from the organisation, died or were jailed, he replied. "The present department of security has that list, although it may not be comprehensive."

He said such a list was kept during his time as head of the security department.

On the abuse of prisoners, he said: "Such (behaviour) was not only a breach of my own words but of the policy of the ANC."

A mutiny in 1983 was quelled with the help of the Soviets and Angolans. "A number of lives were lost," Piliso said.

Despite taking responsibility as head of the department, he could not say how those arrested in connection with the mutiny were handled· "I was not there."

Asked whether there was anything he regretted during his tenure as head of the department, he said "no".

He said he could not recall anyone being beaten to death or being starved as punishment.

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## est for human rights pits rich north against poor south, reports The Economist

# onflict between red and blue

Star 19/5/93.

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The election of Bill Clinton has brought in an American administration with human rights as the cornerstone of its foreign policy, according to Warren Christopher, the Secretary of State Rich countries increasingly use foreign aid as a lever to promote political pluralism and individual freedoms

All this has caused alarm in the Third World, particularly among its autocrats The rich north and the poor south, it is argued, have different priorities.

For the south, the right to economic development is what matters, the north should stop tut-tutting about juridical lapse or dictatorial ways and instead do something about the low commodity prices and the debt burdens that make the poor even poorer.

The regional meetings called to set the agenda for the big human rights conference in Vienna next month have provided forums for this bitterness The Asian countries, meeting in Bangkok a month ago, mobilised a vigorous attack on the values that they think are being imposed on them

Reaffirming the principle of non-interference in the internal affairs of a sovereign state, they condemned the attempt to use human rights as a condition for development aid And they questioned the right of the rich world to set standards, arguing that human rights should be considered against the background of geography, culture and religion

In theory, the UN's definition of human rights, as expressed in 1948, embraces everything from arbitrary arrest to an adequate standard of living But the twin human rights covenants, one covering civil rights (sometimes known as blue rights) and one economic rights (known as red), are by no means equal

There are instruments of a sort for upholding blue rights working groups look into "disappearances", rapporteurs are attached to particularly sinful countries There is no such mechanism for setting red abuse right.

Governments argue that they cannot make a development omelette without breaking heads It may be easier for an authoritarian regime than for a democratic one to carry out economic restructuring, Chile did it, Peru hopes to.

Industrialised countries are accused, rightly, of double standards And donors are in several minds about making human rights a condition for aid.

Certainly, the best hope for more political freedom in some countries lies in opening them up through trade, that is why America would be unwise to refuse China favourable trading terms

Nor can "cultural" arguments always be dismissed Islamic punishments seem awful to Christians but long prison sentences are no delight. Any penal system can be vilely abused

Out of the smudge, some distinctions should be made Rights are different from goals Everyone, bar a few ascetics, thinks it desirable that jobs and housing, and education and medical care should be available to all

But gifts such as these cannot be awarded to everybody, either by judges or by the most benign of governments The best that societies can do is to strive to achieve them.

Rights are different They can be given by passing laws, and taken away just as easily They are the weapons of the weak against the might of the strong That is why they have a place in the constitutions of democracies and none in those of dictatorships

Autocrats may start well-intentioned (few stay that way), but none should be allowed to claim that their pursuit of good economic goals is just one way of upholding their subjects' human rights.

In fact, the route to prosperity is seldom on the backs of tormented people Rules which argue that a country has to be well-off before it can afford to be politically decent to its people are generally providing countries with an excuse for continuing in their bad old ways

As the agenda of the Vienna conference is broadened and flattened, the immediate result looks like an acceptance of the lowest common denominator That would be a pity The rich north, with no reason to be smug, would be wise to listen to the south but not, in the end, allow itself to be diverted from the blue to the red □

The quest for human rights pits rich north against poor south, reports **The Economist**

# Conflict between red and blue

Star 19/5/93. (252)

AN international jamboree on human rights fits the mood of the times. At best, or so it was thought, it would give the United Nations some muscle to stop governments doing terrible things to their peoples, at worst it would serve up a forest of platitudes. Now there is fear of damage rearguard action from some developing countries could reduce the human rights movement, which had begun to feel rather robust, to a lamentation of confused values

Human rights, during the Cold War, were largely ignored at the Security Council — the only UN body with teeth. Its permanent members tended to turn a myopic eye to brutal domestic behaviour arguing that "he may be a sonofabitch but he's our sonofabitch".

That has changed The bit of the UN charter that tells nosey parkers to keep out of other countries' business is less respected than it was, as Saddam Hussein knows to his cost.

The election of Bill Clinton has brought in an American administration with human rights as the cornerstone of its foreign policy, according to Warren Christopher, the Secretary of State Rich countries increasingly use foreign aid as a lever to promote political pluralism and individual freedoms

All this has caused alarm in the Third World, particularly among its autocrats The rich north and the poor south, it is argued, have different priorities

For the south, the right to economic development is what matters, the north should stop tut-tutting about juridical lapse or dictatorial ways and instead do something about the low commodity prices and the debt burdens that make the poor even poorer

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**NEWS** Spotlight on ANC detention camps ● 72 injured and 85 nabbed on Day 8

# ANC chief in quiz on camps

Sowetan 19/5/93

**■ Motsuenyane grills Nhlanhla on 'rehabilitation' centres:**

**By Ruth Bhengu**

HEAD of the African National Congress's Intelligence Mr Joe Nhlanhla told a commission of inquiry yesterday that no one ever died of starvation and torture in the organisation's detention camps (252)

Nhlanhla was testifying before the latest commission, headed by retired president of the National African Federated Chamber of Commerce and Industries Dr Sam Motsuenyane, into allegations of torture of ANC detainees in the ANC's "rehabilitation camps".

The hearing, at the FNB Stadium, has been taking evidence since last week

Responding to questions by Motsuenyane, Nhlanhla said he did not know of anyone who died from torture in the organisation's camps in Angola, Tanzania and Uganda

Asked if he knew of specific cases such as the death of one inmate named Seku in Zambia, Nhlanhla said: "Yes, I think I can recall a certain Twala who was buried in Swaziland"

About Zaba Maletsa, one of those who had revolted in one of the ANC camps and allegedly died in Quatro, Nhlanhla said: "I don't know the circumstances of his death because it was before my time as head. All I know is that Mrs Curtis Nkondo came to Lusaka and we went to meet her I accompanied the president (the late Oliver Tambo) who told her that the comrade had committed suicide in a cell"

Concerning the death of a senior ANC commander, Mr Thami Zulu, in Zambia and who was believed to have been poisoned among other things, Nhlanhla said it was time Zulu's death was cleared "once and for all"

# Shock at Jamile's release

19/5/93

## ■ Killer politician granted indemnity:

SHOCK and a loss of faith in the system of justice have greeted the release from jail of convicted murderer and former KwaZulu Minister of the Interior Samuel Jamile.

Even KwaZulu Chief Minister Mangosuthu Buthelezi, while welcoming the release, has expressed concern in the Legislative Assembly that it might cause a "furore".

Jamile (63) was on Monday granted indemnity as a political prisoner, although the trial judge found his deeds were not politically motivated.

The herbalist politician and member of the Inkatha Freedom Party's central committee was sentenced to life imprisonment in 1991 for the murder of his former tenant, Mr Joseph Khumalo, and the attempted murder of Khumalo's fiancée, Miss Thokozile Shabalala.

Police sources close to the investigating team said yesterday they were "shocked and disgusted".

They felt the move was sure to deter witnesses from co-operating in similar trials in future.

Residents who co-operated with the police were branded "izimpimpi" (informers), and many were dealt with by the "people's courts".

But painstaking efforts by Clermont leaders to get the "comrades" to co-operate with the police resulted in more than 80 witnesses testifying in the marathon trial.

*Courts Correspondent*

# Prosecution 'negative'

Sowetan

CISKEI'S military Council of State yesterday granted unconditional indemnity against criminal prosecution to all people involved in the Bisho massacre of ANC demonstrators on September 7 last year.

The council said criminal prosecution "would simply impact negatively on the multiparty negotiation process and will be prejudicial to the spirit of reconciliation prevailing at these discussions".

Twenty-eight people were killed when Ciskeian security forces allegedly opened fire on demonstrators who marched from King William's Town to the Ciskeian border.

19/5/93

The military council's announcement comes days after Ciskei's Attorney-General said he was formulating charges against 70 people, most of them Ciskei soldiers.

ANC and SA Communist Party official Mr Ronnie Kasrils, who with other ANC leaders led the march, was also reportedly among those to be charged — *Sapa*

# 'Growing rage' over indemnity

B/DAY 19/5/93.

Political Staff

(252)

CAPE TOWN — The DP yesterday claimed that a "civil war" was brewing in prisons over government continuing early release of political offenders, including murderers.

DP justice spokesman Tony Leon said the latest batch of releases under the Further Indemnity Act were tantamount "to a game of musical chairs".

He said prisoners left behind were in a state of rage and seeking reclassification.

Among the six prisoners released this week were former KwaZulu Deputy Interior Minister Bekizizwe Samuel Jamile, who was jailed for life less than two years ago after being convicted of murder and attempted murder

DP law and order spokesman Peter Gastrow noted that the trial judge had found in Jamile's case that political difference between Inkatha and the then-UDF had not been the motive for the murder

"Some of the others who have been released committed horrendous crimes," he said

Our Durban correspondent reports that the ANC announced it was "following certain leads", possibly about irregularities, surrounding Jamile's release

The ANC's southern Natal regional chairman Jeff Radebe said the organisation wished to reserve comment.

KwaZulu Chief Minister Mangosuthu Buthelezi said he was concerned about the uproar that would follow the release of Jamile and KwaZulu MP Wilbert Biyase

However Inkatha, while delighted with the freeing of the two, said it faced a "long struggle" to lobby for the release of 180 political prisoners in Natal

Sapa reports from Pretoria that Lawyers for Human Rights also criticised Jamile's release LHR spokesman Andries Nel expressed the organisation's "outrage at the government's dishonest handling of the political prisoner release process".

Star 19/5/93

# ANC rejects counsel for killing accused

Own Correspondent

The ANC has refused to provide legal representation for a man appearing on multiple murder charges, the Rand Supreme Court heard yesterday.

Mr Justice M C de Klerk yesterday turned down a request by Michael Phama, who has pleaded not guilty to 26 counts of murder and 21 of attempted murder, that the trial be adjourned so that he could talk to the ANC

Phama, an ANC member, is charged with taking part in shooting at Inkatha Freedom Party supporters at a rally in Tokoza, on the East Rand, on September 8 1991.

Phama's pro Deo counsel Riana Essack said the ANC was satisfied with the State-appointed advocate, who now had an assistant

The hearing continues.

# ANC slams indemnity given to Bisho killers

ARGA 15/9/93 (252)

## ☐ Ciskei leader's decision is 'unacceptable'

**Political Staff**

THE ANC today criticised Ciskei military ruler Brigadier Oupa Gqozo's decision to unconditionally indemnify those who took part in the Bisho massacre last year, and said it still expected those involved in the shootings to be prosecuted.

Commenting on Brigadier Gqozo's announcement yesterday that those involved in the killings in September 1992 would not be charged, ANC spokesman Carl Niehaus said his organisation found the Ciskei leader's decision "unacceptable".

Twenty-eight people were killed when Ciskei security forces opened fire on members of the ANC-led tripartite alliance who had marched from King William's Town to the homeland's border.

In a statement yesterday, the Ciskei Military Council of State said a decreee had been issued "granting unconditional indemnity to all persons who took part in the encounter between the Ciskeian security forces and demonstrators at Bisho on September 1 1992".

The Council said the prosecution of those involved would "simply impact negatively on the multiparty negotiation process and will be prejudicial to the spirit of reconciliation prevailing there" — a reason Mr Niehaus described as "sophistry"

The Military Council's announcement comes days after Ciskei Attorney-General Willem Jurgens said he was formulating charges against 70 people — most of them Ciskei soldiers — involved in the massacre.

Mr Niehaus today said all those who were involved in the massacre, including the officers who had given orders to shoot, had to be investigated so that they could be "brought to book".

He said the Goldstone Commission's report into the massacre had clearly indicated that "there were people with culpability," and the ANC wanted to see them charged and prosecuted

Mr Niehaus dismissed Brigadier Gqozo's explanation that prosecution of those involved in the killings would impact negatively on negotiations, saying the ANC was "opposed to this kind of sophistry".

He said it was the Ciskei government's decision to indemnify those involved in the shootings which would cause tensions in the negotiations process

# Free State farmers demand security measures

B/DAY 19/5/93

BLOEMFONTEIN — Free State farmers gathered at police stations yesterday to demand the introduction of security measures in the province

They demanded a curfew and police searches of townships and squatter camps for illegal weapons

Free State Agricultural Union security committee chairman Faan Malherbe said at Herzogville the measures should be carried out in co-operation with organised agriculture's security committees.

The farmers also demanded road blocks on secondary roads and control points at township entrances.

Similar demands were made in Potchefstroom on Monday

Meanwhile, ANC western Transvaal spokesman Rankoa Molefe said agreements reached on Monday between security forces and western Transvaal farmers was a "declaration of war" and if implemented there would be mass action of "unimaginable proportion".

In a meeting on Monday about 250 farmers, police and the SADF agreed to "sharpen up" road blocks, patrols and searches for illegal weapons. The possibility of imposing curfews and unrest areas would be investigated.

The DP said yesterday it sympathised with eastern Transvaal farmers, but it urged them not to allow a racial war to develop.

DP eastern Transvaal official Mike Waters said although farmers' "determination to take the law into their own hands in the face of a dithering government" was understandable, they should act only in defence of their families and property.

☐ Two more elderly couples were attacked and robbed on Transvaal farms yesterday

A 64-year-old farmer was seriously injured outside Pietersburg when he and his wife were attacked by two knife-wielding youths. The youths escaped with firearms and cash.

And near Boons in the western Transvaal, a 68-year-old woman was raped and her 82-year-old husband shot in the shoulder. Two attackers fled with a shotgun and cash. — Sapa.



# Commission ready to probe Inkatha deaths

(252) RAY HARTLEY

OFFICIALS of the Goldstone commission were available to meet Inkatha "as soon as possible" to discuss ways of pursuing an inquiry into the killings of Inkatha officials, Judge Richard Goldstone said yesterday.

Goldstone said steps had already been taken to investigate the deaths.

B/DAY 19/5/93

"Inkatha furnished the commission with a list of over 200 Inkatha officials and members who are alleged to have been murdered since the signing of the peace accord. That list was handed to the SAP with the request that the incidents, known to the SAP, should be identified and relevant information given in relation to the commission," he said.

The judge said the commission informed a senior Inkatha member on May 8 that it wanted "any relevant information concerning any murders which Inkatha alleged were not satisfactorily being investigated by the SAP" There had been no response as yet.

"On May 11, the commission was informed by the SAP that the Inkatha allegations have formed the subject-matter of an investigation since November 1992. There has been contact in that regard between the SAP, the Inkatha Institute, the KwaZulu government and the SAP," he said

Meanwhile, our Maritzburg correspondent reports that police yesterday offered a R20 000 reward in their investigation into the killing of two people in an ambush on a bus carrying Inkatha supporters at Georgetown near Edendale on Saturday night.

The supporters were returning from a peace march in Maritzburg when gunmen opened fire with AK-47s, killing two women and injuring 14 people.

# Argus wins court battle against Caxton

SUSAN RUSSELL

THE Rand Supreme Court yesterday gave The Star the go-ahead to continue publishing supplements aimed at readers and advertisers in specific areas of the Witwatersrand, ruling that they did not breach restraint agreements with Caxton.

Judge E Goldstein dismissed with costs an application by CTP Ltd (Caxton) for an order interdicting Argus Holdings from publishing free and separate "knock-and-drop" and local newspapers anywhere in SA or Namibia

Caxton claimed that the publications, distributed as inserts to The Star in certain areas, were an attempt to poach a share of its free knock-and-drop and local newspaper market in breach of restraint agreements Argus opposed the application on the grounds that the publications were supplements and not free and separate or local newspapers as contended by Caxton

Dismissing the application, Goldstein said the publications were not free because they had to be obtained by purchasing a copy of The Star. The fact that the supplements were not available in all areas where The Star was distributed did not make them free. They were also clearly not separate.

The judge also rejected Caxton's contention that the publications breached the restraint agreements because they were local newspapers as opposed to regional He said the terms "local newspaper" and "regional newspaper" were relative and had been left undefined in the agreements.

B/Day 19/5/93

(252)

# Indemnity plea with De Klerk

Star 19/5/93

PORT ELIZABETH — The indemnity application of Colonel Lourens du Plessis, who claimed that the controversial Goniwe signal was a death order, has been processed and forwarded to the State President for a decision. (252)

Lawyers for Du Plessis said recommendations on the application from the National Council on Indemnity had been sent to the State President and it was for him to decide.

Colonel du Plessis indicated he would testify if he was granted indemnity from prosecution.

The inquest in a Port Elizabeth Supreme Court will resume on Monday. — Ecna.

# Anger over massacre indemnity

Star 19/5/93

**Political Correspondent**

The ANC today slammed Ciskei military ruler Brigadier Oupa Gqozo's decision to unconditionally indemnify those who took part in the September 7 Bisho massacre last year, and said it still expected those involved in the shootings to be prosecuted

Commenting on Gqozo's announcement yesterday that those involved in the killings would not be charged, ANC spokesman Carl Niehaus said his organisation found the Ciskei leader's decision "unacceptable"

Twenty-eight people were killed when Ciskei security forces opened fire on mem-

● To Page 3

# ANC angry over indemnity

Star 19/5/93

● From Page 1

bers of the ANC-led tripartite alliance who had marched from King William's Town to the homeland's border.

In a statement yesterday, the Ciskei Military Council of State said "a decree granting unconditional indemnity to all persons who took part in the encounter between the Ciskeian security forces and demonstrators at Bisho on September 1 1992 had been issued.

The council said the prosecution of those involved would "simply impact negatively on the multiparty negotiation process and would be prejudicial to the spirit of reconciliation"

The Military Council's announcement comes days after Ciskei Attorney-General Willem Jurgens said he was formulating charges against 70 people — most of them Ciskei soldiers — involved in the massacre.

Niehaus today said all those who were involved in the massacre, including the officers who had given orders to shoot, had to be investigated so that they could be "brought to book".

# A-G opposed killer's release

ARG 19/5/93

**The Argus Correspondent**

DURBAN. — The Natal Attorney-General opposed the release of convicted murderer Samuel Jamile because it was questionable whether it "may promote reconciliation and peaceful solutions" — as required by the Act under which he was released

Attorney-General Tim McNally, SC, said other grounds for opposing Jamile's application for release to the National Council on Indemnity had been that: (252)

- Jamile steadfastly maintained his innocence throughout the trial. Hence there was no question of his having claimed to have committed a murder with a political motive.
- The court did not find the motive to have been political.

REPUBLIC OF SOUTH AFRICA

REPUBLIEK VAN SUID-AFRIKA

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## GOVERNMENT NOTICE

### DEPARTMENT OF JUSTICE

**No. R. 920** 252 **19 May 1993**

AMENDMENT OF THE REGULATIONS MADE UNDER THE MEDIATION IN CERTAIN DIVORCE MATTERS ACT, 1987 (ACT No 24 OF 1987)

The Minister of Justice has, under section 5 of the Mediation in Certain Divorce Matters Act, 1987 (Act No 24 of 1987), made the regulations in the Schedule

### SCHEDULE

***Definition***

**1.** In this Schedule "the Regulations" means the Mediation in Certain Divorce Matters Regulations, 1990, published under Government Notice No R 2385 of 3 October 1990, as amended by Government Notice No R 2513 of 11 September 1992

***Amendment of regulation 7A of the Regulations***

**2.** Regulation 7A of the Regulations is hereby amended by the deletion of subregulation (7)

***Insertion of regulation 7B in the Regulations***

**3.** The following regulation is hereby inserted in the Regulations after regulation 7A

**"Remuneration and allowances payable to a Family Counsellor and remuneration payable to a person appointed to assist a Family Advocate or a Family Counsellor**

7B (1) In this regulation "person" means a person or persons appointed under regulation 6



## GOEWERMENTSKENNISGEWING

### DEPARTEMENT VAN JUSTISIE

**No. R. 920** **19 Mei 1993**

WYSIGING VAN DIE REGULASIES UITGEVAARDIG KRAGTENS DIE WET OP BEMIDDELING IN SEKERE EGSKEIDINGSAANGELEENTHEDE, 1987 (WET No 24 VAN 1987)

Die Minister van Justisie het kragtens artikel 5 van die Wet op Bemiddeling in Sekere Egskeidingsaangeleenthede, 1987 (Wet No 24 van 1987), die regulasies in die Bylae uitgevaardig

### BYLAE

***Woordomskrywing***

**1.** In hierdie Bylae beteken "die Regulasies" die Regulasies op Bemiddeling in Sekere Egskeidingsaangeleenthede, 1990, afgekondig by Goewermentskennisgewing No R 2385 van 3 Oktober 1990, soos gewysig by Goewermentskennisgewing No R 2513 van 11 September 1992

***Wysiging van regulasie 7A van die Regulasies***

**2.** Regulasie 7A van die Regulasies word hierby gewysig deur subregulasie (7) te skrap.

***Invoeging van regulasie 7B in die Regulasies***

**3.** Die volgende regulasie word hierby na regulasie 7A in die Regulasies ingevoeg.

**"Vergoeding en toelaes betaalbaar aan 'n Gesinsraadgewer en vergoeding betaalbaar aan 'n persoon aangestel om 'n Gesinsadvokaat of 'n Gesinsraadgewer behulpsaam te wees**

7B (1) In hierdie regulasie beteken "persoon" 'n persoon of persone kragtens regulasie 6 aangestel.

## CONTENTS



## INHOUD



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(2) A Family Counsellor or a person who, for the purposes of rendering assistance, is obliged to rent accommodation for the night or is absent for a period of 24 hours or longer from the city or town where he normally works or resides is entitled to the following remuneration

(i) An all-inclusive amount of R65,00 per day, or

(ii) the actual expenses reasonably incurred by him in respect of accommodation and meals, and a special remuneration of R20,00 per day for incidental expenses

(3) If a Family Counsellor or a person is absent for a period of less than 24 hours from the city or town where he normally works or resides and is not obliged to rent accommodation for the night he shall be paid an all-inclusive remuneration of R25,00 per day

(4) (a) Whenever a Family Counsellor or a person makes use of public transport for the purposes of rendering assistance a remuneration equal to the actual cost of such transport for the forward and return journey by the shortest convenient route shall be paid to him Provided that if more than one suitable means of public transport is available, the actual cost shall be deemed to be the amount of money which, in the circumstances, would have been charged for transportation by the least expensive of such means of public transport

(b) Whenever a Family Counsellor or a person makes use of private transport for the purposes of rendering assistance he shall be paid an amount for the forward and return journey by the shortest convenient route, calculated at R1,00 per kilometre

(5) A Family Counsellor or a person who is an officer in the Public Service or who is in the service of a body or organisation that receives financial aid from the State shall not be entitled to any remuneration payable to him in terms of subregulation (2), (3) or (4), whichever may be applicable

(6) When submitting for payment in terms of subregulation (2) (ii) a claim for the actual expenses incurred by him in respect of accommodation and meals, a Family Counsellor or a person shall submit the necessary receipts or other vouchers in support of his expenses to the Registrar of the Supreme Court "

(2) 'n Gesinsraadgewer of 'n persoon wat, vir doeleindes van bystand of hulpverlening, na gelang van die geval, genoodsaak is om huisvesting vir 'n nag te huur of wat vir 'n tydperk van 24 uur of langer afwesig is van die stad of dorp waar hy normaalweg werksaam of woonagtig is, is geregtig op die volgende vergoeding

(i) 'n Allesinsluitende bedrag van R65,00 per dag, of

(ii) die werklike uitgawes redelikerwys deur hom aangegaan ten opsigte van huisvesting en maaltye, asook 'n spesiale vergoeding van R20,00 per dag vir bykomstige uitgawes

(3) Indien 'n Gesinsraadgewer of 'n persoon vir 'n korter tydperk as 24 uur afwesig is van die stad of dorp waar hy normaalweg werksaam of woonagtig is en nie genoodsaak word om huisvesting vir 'n nag te huur nie, word 'n allesomvattende vergoeding van R25,00 per dag aan hom betaal.

(4) (a) Wanneer 'n Gesinsraadgewer of 'n persoon van openbare vervoer gebruik maak vir doeleindes van die lewering van bystand of die verlening van hulp, na gelang van die geval, word 'n vergoeding gelykstaande met die werklike koste van sodanige vervoer vir die heen-en-terugreis langs die kortste geskikte roete aan hom betaal Met dien verstande dat indien meer as een geskikte openbare vervoermiddel beskikbaar is, die werklike koste geag word die bedrag geld te wees wat vir vervoer deur middel van die goedkoopste van sodanige openbare vervoermiddels in die betrokke omstandighede gehef sou word

(b) Wanneer 'n Gesinsraadgewer of 'n persoon van private vervoer gebruik maak vir doeleindes van die lewering van bystand of die verlening van hulp, na gelang van die geval, word 'n bedrag vir die heen-en-terugreis langs die kortste geskikte roete, bereken teen R1,00 per kilometer, aan hom betaal

(5) 'n Gesinsraadgewer of 'n persoon wat 'n beampte in die Staatsdiens is of wat in die diens is van 'n instansie of organisasie wat geldelike hulp van die Staat ontvang, is nie geregtig op enige vergoeding aan hom betaalbaar ingevolge subregulasie (2), (3) of (4) nie, watter een ook al van toepassing is

(6) By die voorlegging vir betaling ingevolge subregulasie (2) (ii) van 'n eis vir die werklike uitgawes ten opsigte van huisvesting en maaltye deur hom aangegaan, moet 'n Gesinsraadgewer of 'n persoon die nodige kwitansies of ander bewysstukke ter stawing van sy uitgawes aan die Griffier van die Hooggeregshof verstrek "

***Insertion of regulation 7C in the Regulations***

**4.** The following regulation is hereby inserted in the Regulations after regulation 7B

**"Miscellaneous provisions**

7C The decision of the Registrar of the Supreme Court regarding the amounts payable in terms of regulations 7A and 7B shall be final "

***Commencement***

**5.** These regulations shall come into operation on **19 May 1993.**

***Invoeging van regulasie 7C in die Regulasies***

**4.** Die volgende regulasie word hierby na regulasie 7B in die Regulasies ingevoeg

**"Diverse bepalings**

7C Die beslissing van die Griffier van die Hooggeregshof betreffende die bedrae ingevolge regulasies 7A en 7B betaalbaar, is afdoende "

***Inwerkingtreding***

**5.** Hierdie regulasies tree op **19 Mei 1993** in werking

# Lower legal fees allowed

CT 20/5/93

Own Correspondent (252)

DURBAN — Attorneys will be able to charge lower fees for certain conveyancing work, according to a recent landmark judgment

However, small law firms and less influential members of the public would lose out and large firms of attorneys would benefit, said Natal Law Society (NLS) president Mr Ashwin Trikamjee

In a reserved judgment in Maritzburg's Supreme Court on May 6, Mr Justice McLaren ruled in favour of a Durban firm which challenged NLS's refusal to allow them to charge a lower fee for certain conveyancing work than the fees fixed by the Deeds Registries Act He found the relevant legislation and public policy did not preclude this

Mr Trikamjee said the probable result would be that small legal firms would fall prey to large firms hungry for a greater volume of work

# Application for indemnity delays Goniwe inquest

Star 20/5/93

PORT ELIZABETH — The reopened Goniwe inquest has been postponed pending a decision by the State President on an application for indemnity by a key witness, Colonel Lourens du Plessis

(252)

The Eastern Cape Attorney-General's office said yesterday that the presiding officer, Judge President Mr Justice Neville Zietsman, had postponed the inquest pending a decision by President de Klerk

Du Plessis was responsible for drafting the controversial signal ordering the "permanent removal" of Cradock teacher and activist Matthew Goniwe.

In an affidavit, Du Plessis said the signal was an order to kill Goniwe.

Du Plessis further said he had drafted the signal message on the instruction of General "Joffel" van der Westhuizen, who is head of the SADF's staff intelligence. Van der Westhuizen was head of Eastern Cape Command at the time

The inquest on the death of Goniwe and three other Cradock activists was reopened on the instructions of the State President after the media published a copy of the signal message

The mutilated bodies of Goniwe, Fort Calata, Sparrow Mkhonto and Sicelo Mhlauli were found at Bluewater Bay, outside Port Elizabeth — PEN.

# No bitterness after stint in detention camp – Jordan

Star 20/5/93

By Mokone Molete

Despite being held for six weeks in solitary confinement — four weeks without a change of clothes — the ANC's information chief Dr Pallo Jordan said yesterday that he was not bitter about his arrest.

Testifying before the Motsuenyane Commission in Johannesburg about alleged human rights abuses in ANC camps, Jordan recalled his arrest in Angola in 1983. He said he was arrested for criticising the activities of the department of security and intelligence.

He was told he had been arrested for alleging that the department of security had acted "in a fascist manner"

Sketching the background to his arrest, Jordan said he was not bitter because at the time the movement was under much pressure due to infiltration by South African agents.

It was during a time when an entire camp had been poisoned and another camp almost bombed apart by the South African Government.

A number of attacks had also been carried out against ANC members in exile.

He said he had been well treated in detention, given three meals a day and allowed walks.

Asked whether he was ever tortured, he replied "No. There was not even a suggestion (of torture) physically or emotionally." In answer to another question, he said a lesson learnt from his detention was that human rights could not be taken for granted.

"Respect for human rights is not a luxury you adopt when times are good and discard when times are bad," he said.

To redress the situation, the ANC later established an office of justice as well as a tribunal through which people could address their complaints.

Later, Ronnie Kasrils told the commission that he had informed the organisation that he was unhappy about conditions at Quatro camp in Angola.

Although the camp looked neat, ventilation in the cells was inadequate, he said. He was also unhappy about the relative youth of the commanders in charge of the camp, who did not have the "maturity" to handle the type of responsibility they were charged with.

His visits to the camp's inmates had elicited no reports of maltreatment

# FW, Coetzee 'performed dismally in release tasks'

ARG 20/5/93

(252)

**The Argus Correspondent**

DURBAN. — President De Klerk and Justice Minister Kobie Coetzee should no longer have exclusive control over the release of political prisoners, a spokesman for Lawyers for Human Rights said here

Reacting to the release of six political prisoners this week, Mr Andries Nel of the Penal Reform Project of the LHR said both President De Klerk and Mr Coetzee "have performed dismally in their task and unless restrained will continue to do so".

Mr Nel recommended the formation of an audit committee consisting of the parties concerned to expedite the process and finalise the releases.

He said members of his organisation were "outraged" at the government's "inept and dishonest" handling of the release process.

"The government's sorry track record on this issue is replete with examples of attempts to placate its constituency by releasing criminals who happen to have rightwing or security force links to counter the releases of leftwing prisoners"

The government was now using its "discredited" Further Indemnity Act to release people who were convicted of crimes which had nothing to do with politics, he said

Among the people who were released this week are former Kwazulu Deputy Interior Minister Samuel Bhekizizwe Jamile and former Kwazulu Legislative member Wilbert Madodeni Biyase

In a sensational trial, Jamile was found guilty of the murder of Mr Joseph Khumalo and the attempted murder of Mr Khumalo's fiancée, Miss Thokozile Shabalala, at Mamba Valley in the greater Durban area on the night of April 5 1987 The couple were Mr Jamile's tenants at the time

He was sentenced to life imprisonment.

Biyase was serving a 20-year sentence for five counts of murder and three of attempted murder.

# De Klerk looks at indemnity

CT 20/5/93

PORT ELIZABETH. — The indemnity application for Colonel Lourens du Plessis, who alleged that the signal for the "permanent removal from society" of Matthew Goniwe was his death warrant, has gone to President F W de Klerk.

Mr De Klerk's office could not immediately confirm this. The Goniwe inquest was postponed till June 8. — Sapa

Star 20/5/92

# Plea for human rights body

By Helen Grange

252

An appeal has been made to human rights and democratic organisations to help set up a Human Rights Foundation by early next month

Dr Thabo Rangaka, chairman of the Human Rights Foundation planning committee, said this week that the need for such a body was urgent in view of the continued violence in the country

The functions of the Human Rights Foundation include setting up a networking service to put fund providers in contact with deserving service providers and facilitating the establishment of regional treatment and rehabilitation centres for violence victims.

Information and documentation emanating from helping agencies could be shared locally and internationally

The Human Rights Foundation planning committee currently comprises, among others, the Soweto Civic Association health delegation, the Centre for the Study of Violence and Reconciliation, the National Co-ordinating Committee for Returnees, the ANC crisis service team, Medicine du Monde, and practitioners belonging to the SA Medical and Dental Association

(b) communication of its proposals and functions to employers and employees in the Industry,

(c) the establishment of a committee to address a framework for career paths and training modules in the Industry by March 1992;

(d) regular reporting by the Industry Education and Training Board to the Industrial Council on training efforts occurring in the Industry

(b) die mededeling van sy voorstelle en funksies aan werkgewers en werknemers in die Nywerheid;

(c) die stigting van 'n komitee om teen Maart 1992 'n raamwerk vir beplande beroepe en opleidingsmodules binne die Nywerheid daar te stel,

(d) gereelde verslagdoening deur die Raad vir Nywerheidsonderrig en -opleiding aan die Nywerheidsraad oor opleidingspogings in die Nywerheid.

## DEPARTMENT OF HOME AFFAIRS

**No. R. 883** (252) **21 May 1993**

MARRIAGE ACT, 1961 (ACT No. 25 OF 1961)

FIRST AMENDMENT OF THE REGULATIONS IN TERMS OF THE MARRIAGE ACT

The Minister of Home Affairs has, in terms of section 38 of the Marriage Act, 1961 (Act No. 25 of 1961), made the regulations in the Schedule.

### SCHEDULE

***Definition***

**1.** In this Schedule the expression "the Regulations" means the regulations in terms of the Marriage Act, 1961, published under Government Notice No R 2207 of 24 October 1986.

***Insertion of regulations 5A, 5B, 5C and 5D in the Regulations***

**2.** The following regulations are hereby inserted after regulation 5 of the Regulations.

**"Marriage register**

5A. The marriage register referred to in section 29A shall contain substantially the information prescribed on form BI-30

**Issuing of marriage certificates**

5B (1) The marriage officer who solemnizes a marriage shall, after the register referred to in section 29A (1) has been signed, issue to the parties, free of charge, a marriage certificate containing substantially the information prescribed on form BI-27, in respect of the marriage

(2) The Director-General may on application issue—

(a) an abridged marriage certificate, containing substantially the information prescribed on form BI-41; or

(b) a full marriage certificate, containing substantially the information prescribed on form BI-36,

based on the particulars contained in a marriage register which is preserved by him under the Act or any other law, or of which the particulars are included in the population register mentioned in the Identification Act, 1986 (Act No 72 of 1986), on receipt of—

(i) an amount of R12,00 in respect of an abridged marriage certificate, or

(ii) an amount of R24,00 in respect of a full marriage certificate

## DEPARTEMENT VAN BINNELANDSE SAKE

**No. R. 883** **21 Mei 1993**

HUWELIKSWET, 1961 (WET No. 25 VAN 1961)

EERSTE WYSIGING VAN DIE REGULASIES KRAGTENS DIE HUWELIKSWET

Die Minister van Binnelandse Sake het kragtens artikel 38 van die Huwelikswet, 1961 (Wet No. 25 van 1961), die regulasies in die Bylae uitgevaardig.

### BYLAE

***Woordomskrywing***

**1.** In hierdie Bylae beteken die uitdrukking "die Regulasies" die regulasies kragtens die Huwelikswet, 1961, afgekondig by Goewermentskennisgewing No. R. 2207 van 24 Oktober 1986.

***Invoeging van regulasies 5A, 5B, 5C en 5D in die Regulasies***

**2.** Die volgende regulasies word hierby na regulasie 5 van die Regulasies ingevoeg:

**"Huweliksregister**

5A. Die huweliksregister bedoel in artikel 29A moet wesenlik die besonderhede voorgeskryf op vorm BI-30 bevat.

**Uitreiking van huweliksertifikate**

5B. (1) Die huweliksbevestiger wat 'n huwelik voltrek, moet, nadat die register bedoel in artikel 29A (1) onderteken is, 'n huweliksertifikaat, wat wesenlik die besonderhede voorgeskryf op vorm BI-27 bevat, ten opsigte van die huwelik gratis aan die partye uitreik.

(2) Die Direkteur-generaal kan op aansoek—

(a) 'n verkorte huweliksertifikaat uitreik wat wesenlik die besonderhede voorgeskryf op vorm BI-41 bevat; of

(b) 'n volledige huweliksertifikaat uitreik wat wesenlik die besonderhede voorgeskryf op vorm BI-36 bevat,

gegrond op die besonderhede vervat in 'n huweliksregister wat kragtens die Wet of enige ander wet deur hom bewaar word of waarvan die besonderhede in die bevolkingsregister, vermeld in die Wet op Identifikasie, 1986 (Wet No. 72 van 1986), opgeneem is, uitreik by ontvangs van—

(i) 'n bedrag van R12,00 ten opsigte van 'n verkorte huweliksertifikaat; of

(ii) R24,00 ten opsigte van 'n volledige huweliksertifikaat.

→ P 10 →

**Supplementation and rectification of particulars in the marriage register**

5C. If it comes to the attention of the Director-General that any particular in respect of any person in any marriage register completed or preserved in terms of the Act or these regulations, are not correctly reflected, the Director-General may supplement and rectify such particular

**Completion of marriage register**

5D. Where a marriage has allegedly been solemnized in terms of the Act but the marriage register referred to in section 29A has for some reason or other not been completed or cannot be found, the Director-General may, after consideration of such proof and after such inquiry as he may deem necessary, direct that the marriage register referred to in regulation 5A with regard to such marriage be completed ".

***Amendment of regulation 6 of the Regulations***

**3.** Regulation 6 of the Regulations is hereby amended—

(a) by the substitution for subregulation (1) of the following subregulation.

"(1) Any marriage officer shall, in respect of every marriage solemnized by him, forward the documents referred to in subregulation (2), where applicable, together with the register and duplicate of the register referred to in regulation 5A, to the regional or district representative of the Department of Home Affairs for forwarding to the Director-General as contemplated in subregulation (3) ", and

(b) by the deletion of subparagraphs (ii) and (iii) of paragraph (d) of subregulation (2)

***Amendment of regulation 13 of the Regulations***

**4.** Regulation 13 of the Regulations is hereby amended by the deletion of paragraphs (b) and (c)

***Insertion of regulation 13A in the Regulations***

**5.** The following regulation is hereby inserted after regulation 13 of the Regulations:

**"Offences and penalties**

13A. Any person who—

(a) contravenes any provision of these regulations or fails to comply therewith,

(b) makes or causes to be made any false statement relating to any of the particulars required by these regulations to be furnished, or

(c) falsely makes or counterfeits or causes to be falsely made or counterfeited any marriage certificate mentioned in regulation 5B, any certified copy thereof or any certified extract therefrom,

shall be guilty of an offence and on conviction liable to a fine, or to imprisonment for a period not exceeding three months."

***Amendment of Annexure to the Regulations***

**6.** The Annexure to the Regulations is hereby amended—

(a) by the insertion of the following forms before form BI-31E

**Aanvulling en verbetering van besonderhede in huweliksregister**

5C Indien dit onder die Direkteur-generaal se aandag kom dat enige besonderheid ten opsigte van 'n persoon in 'n huweliksregister wat ingevolge die Wet of hierdie regulasies voltooi is of bewaar word, nie korrek weergegee word nie, kan die Direkteur-generaal sodanige besonderheid aanvul en verbeter

**Invul van huweliksregister**

5D Waar 'n huwelik na bewering kragtens die Wet voltrek is maar die huweliksregister bedoel in artikel 29A om die een of ander rede nie ingevul is of nie gevind kan word nie, kan die Direkteur-generaal, na oorweging van sodanige bewyse en na sodanige ondersoek as wat hy nodig ag, gelas dat die huweliksregister bedoel in regulasie 5A ten opsigte van sodanige huwelik ingevul word.".

***Wysiging van regulasie 6 van die Regulasies***

**3.** Regulasie 6 van die Regulasies word hierby gewysig—

(a) deur subregulasie (1) deur die volgende subregulasie te vervang:

"(1) 'n Huweliksbevestiger moet ten opsigte van elke huwelik wat hy bevestig, die dokumente bedoel in subregulasie (2), waar van toepassing, saam met die register en duplikaat van die register bedoel in regulasie 5A, aan die streek- of distriksverteenwoordiger van die Departement van Binnelandse Sake stuur vir deursending aan die Direkteur-generaal soos beoog in subregulasie (3) "; en

(b) deur subparagrawe (ii) en (iii) van paragraaf (d) van subregulasie (2) te skrap

***Wysiging van regulasie 13 van die Regulasies***

**4.** Regulasie 13 van die Regulasies word hierby gewysig deur paragrawe (b) en (c) te skrap.

***Invoeging van regulasie 13A in die Regulasies***

**5.** Die volgende regulasie word hierby na regulasie 13 van die Regulasies ingevoeg.

**"Misdrywe en strawwe**

13A. Iemand wat—

(a) 'n bepaling van hierdie regulasies oortree of versuim om daaraan te voldoen;

(b) 'n valse verklaring betreffende enige besonderhede wat volgens hierdie regulasies verstrek moet word, doen of laat doen, of

(c) 'n huweliksertifikaat in regulasie 5B vermeld, 'n gesertifiseerde afskrif daarvan of 'n gesertifiseerde uittreksel daaruit, vervals of namaak of dit laat vervals of namaak,

is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n boete, of met gevangenisstraf vir 'n tydperk van hoogstens drie maande.".

***Wysiging van Aanhangsel tot die Regulasies***

**6.** Die Aanhangsel tot die Regulasies word hierby gewysig—

(a) deur die volgende vorms voor vorm BI-31A in te voeg:

# 'Lock him up!'

## Outcry greets release of Inkatha killer

C Press 23/5/95

By FRED KHUMALO

WE want him back in jail!

This is the cry – both from legal and political circles – that greeted the release from prison of convicted murderer and former KwaZulu deputy interior minister Samuel Bhekizizwe Jamile, 63

Natal Attorney-General Tim McNally said when his office was notified of the former KwaZulu minister's application to the National Council for Indemnity, he sent a senior advocate to the Sandton hearing with instructions to oppose the application

These were the grounds on which the opposition was based

■ Jamile steadfastly maintained his innocence throughout the trial There was therefore no question of his having claimed to have committed a murder with a political motive,

■ The court did not find the motive to have been political,

■ It is questionable whether Jamile's release "may promote reconciliation and peaceful solutions" as is required by the Further Indemnity Act under whose terms Jamile was released

Jamile – fomerly a prominent herbalist and Inkatha central committee member – was sentenced to life imprisonment in 1991 for the murder of his former tenant, Joseph Bhekuyise Khumalo, and the attempted murder of Khumalo's fiancee Thokozile Miriam Shabalala

Jamile subsequently paid Shabalala R15 000 in an out-of-court settlement.

In a statement ANC southern Natal spokesman Dumisani Makhaye said the release of Jamile "demonstrates that the judicial system in SA is run in the same way as the Special Courts of Nazi Germany which prosecuted enemies of Nazism

"Under no circumstances can the murder of the tenants be said to (have) been political Indeed, throughout the trial the defence maintained that Jamile was innocent and therefore was not involved in political killings"

Democratic Party Law and Order spokesman Peter Gastrow said it was shocking that at a time of "rampant lawlessness" the hardest murderers could be released on apparent political grounds

"In Jamile's case the trial judge found that the political differences between Inkatha and the then UDF were not the motive for the murders," Gastrow said.

Justice Mitchell, who convicted Jamile, rejected his appeal, saying "The state proved a difference in political approach between Jamile and the alleged victims of the violence"

"But," said the judge, "it failed to lead any evidence connecting the crimes or the charges before us with such political motivation, either on the part of Jamile or anyone else, because it must be remembered that. not only were the members supporting the UDF killed or assaulted, but also members of Inkatha and that includes the person of Jamile on whom attacks were also made

"In the result, the counts against Jamile and Hlophe have to be considered individually, and not as a part of a pattern"

Jamile and five others were released in terms of the Further Indemnity Act as prisoners whose crimes were considered by the National Council for Indemnity to have been committed with a political motive

Jamile's release is further complicated by his well-documented ties with the security police It emerged in court that when Jamile was originally arrested for the Khumalo murder, he phoned Col James Louwrens of the security branch who ordered his immediate release

Statements made by a Clermont State of Emergency detainee ended up in the hands of Jamile's lawyer, and it was never explained how and why the privileged documents left security police filing cabinets

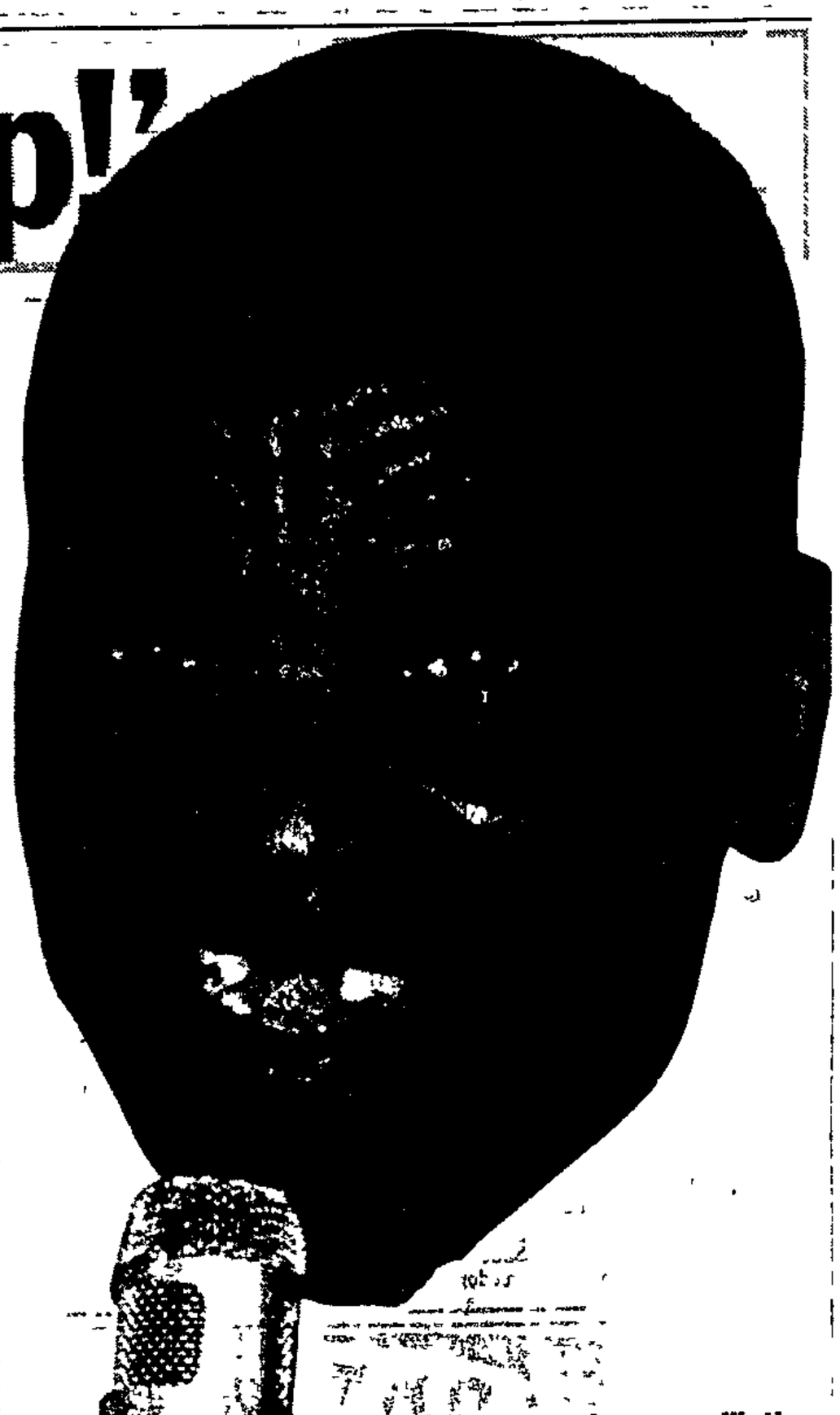
Nor was any explanation offered about the whereabouts of several members of the KwaZulu Police, including ex-Caprivi Strip trainees, who featured prominently in the trial as Jamile's alleged hit-squads Those policemen simply "disappeared", according to KZP officials

Jamile and co-accused Msizi Jethro Hlophe – who is still in jail – were charged with five counts of murder, seven of attempted murder and three of incitement to murder

Jamile was convicted of one murder and one attempted murder, while Hlophe was jailed for an effective 22 years for two murders

Others released alongside Jamile were HM Chego, JM Chego, ANC member P Tikanie, PJJ Leeb and Inkatha official and senior member of the KwaZulu cabinet Wilbert Biyase, convicted on five counts of murder

KwaZulu chief minister and Inkatha president Dr Mangosuthu Buthelezi said while he was happy about the releases, he was worried about the uproar that could result



**This man has been released "to promote reconciliation and peaceful solutions" in terms of the Further Indemnity Act. Samuel Jamile, 63, formerly a prominent herbalist and Inkatha Central Committee member was convicted of murdering a former tenant in 1991. At the time the judge found no political motive for the killing.**

## Commission 'unprocedural'

DIRK VAN EEDEN

THE Motsuenyane commission of inquiry into alleged human rights violations in ANC camps may have to call back people who have already given evidence, says International Society for Human Rights spokesman Marc Gordon.

The commission, called by ANC president Nelson Mandela, heard the evidence of ANC members accused of violations before that of victims scheduled to testify.

When ANC deputy secretary-general Jacob Zuma was questioned on Tuesday, lead counsel for the defence Dullah Omar objected, saying it was "unprocedural" for an accused to answer to allegations not yet heard by the commission B/DAY 21/5/93.

Commission chairman Sam Motsuenyane could not be reached yesterday.

ANC spokesman Carl Niehaus said the ANC regarded the commission as independent and would not comment on the procedures.

The commission has collected 300 pages of affidavits from witnesses However, these testimonies will not be heard or questioned until after the ANC leaders have been heard

Gordon said all those who had already given evidence might have to be recalled to re-present evidence or to answer to allegations by former detainees who had not yet been heard.

"Given the situation in SA this may be difficult for the commission to achieve, despite being established on the personal authority of Mandela."

## Jamile will not return to the government, says Buthelezi

B/DAY 21/5/93.

DIRK VAN EEDEN

RELEASED murderer and former KwaZulu deputy interior minister Samuel Jamile would not return to the KwaZulu government, KwaZulu Chief Minister Mangosuthu Buthelezi said this week

Jamile and five others were released from prison on Monday in terms of the Further Indemnity Act He was sentenced to life imprisonment two years ago for murder and attempted murder.

Reacting to statements by the ANC on the release of Jamile, Buthelezi said Inkatha remained silent when convicted criminals who were ANC members were indemnified.

"The ANC's leadership has perfected the use of double standards into an art ANC criminals are always canonised as heroes"

The ANC said Jamile's release was a "cynical political manoeuvre" by government, which was trying to placate its constituency.

"The government does not seem to care at all that it is undermining the whole judicial process, and sends a message to the right-wing and third-force elements that they can proceed with criminal actions without fearing serious retribution," the ANC said

Buthelezi said no evidence was heard in court to indicate that Jamile acted under the instruction of the Inkatha.

Our Durban correspondent reports that Buthelezi this week rejected multiparty control of SA's security forces and warned that KwaZulu would resist the incorporation of Umkhonto we Sizwe into the army or police

Addressing the KwaZulu Legislative Assemby in his budget speech on Wednesday, he said the "initiatives being mounted by the ANC/SACP alliance aimed at bringing all the country's security forces under one central command structure must be rejected"

The KwaZulu government's demand for a federal SA included a regional security force

Buthelezi said the ANC and its allies wanted centralised control over the security forces to "enable them to incorporate Umkhonto we Sizwe into the SA Police and armed forces and to gain political control"

## Mayor in bid to avert Cape taxi war

B/DAY 21/5/93.

Own Correspondent

CAPE TOWN — Cape Town mayor Frank van der Velde said yesterday he was working with the local peace committee and the Goldstone committee to try to avert a full-scale outbreak of the township taxi war again

"We are trying to organise a meeting between the two groups within the next few days," he said.

Van der Velde said he had held a meeting recently with one of the warring groups, the supporters of the so-called "Big Eight"

Members of the other faction, supporters of the Codeta taxi association executive, said earlier this week that most executive members were no longer sleeping at their homes for fear of attacks

# Indemnity decree slammed by ANC

Star 21/5/93

(252)

EAST LONDON — The ANC has warned Ciskei soldiers and policemen indemnified this week from possible prosecution over their involvement in the September 7 Bisho massacre they could still face charges.

The ANC rejected a Ciskei decree granting unconditional indemnity, saying it reserved the right to prosecute culprits "when the right time comes".

It regarded the decree, which came shortly after an announcement that charges were likely to be brought against 70 Ciskei soldiers and policemen and former ANC chief of intelligence Ronnie Kasrils, as fraudulent.

The ANC said the Indemnity Law, passed by a special session of the Ciskei Council of State, underscored the need for the speedy reincorporation of the homeland states

The Congress of Traditional Leaders of South Africa called on the South African Government to distance itself from the indemnity and to bring to court seconded South African officials allegedly involved in the incident

Said Ciskei's military ruler Brigadier Oupa Gqozo last night. "The right of anyone who wishes to institute civil action for personal suffering of any description has not been contaminated in any way.

"It is significant that some of the most vociferous in their condemnation of the decree are themselves beneficiaries of indemnity legislation enacted by the South African Parliament."

# Released former Minister denies committing murder

Star 21/5/93

(107)

DURBAN — Indemnified former KwaZulu deputy interior Minister Samuel Jamile maintains he did not commit the murder for which he was convicted two years ago. (252)

Speaking from his herbalist shop in the KwaZulu capital of Ulundi, Jamile (63) believed that had his application for leave to appeal been granted, the case would have taken a different course.

Jamile and five other prisoners were released this week after they qualified for political prisoner status in terms of the Further Indemnity Act.

He said he would stay away from politics and concentrate on healing people

On violence, Jamile said he had always advocated non-violence even before he was jailed.

"I have always preached peaceful negotiations even before I was arrested

"The world knows who said freedom would be gained by the use of burning tyres and matches I have never said that." — Own Correspondent.

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# Letting the sun shine in at public hearings

(252)

W/Mail 21/5-27/5/93

*Despite some comparisons to the Spanish Inquisition, the open hearings for the new SABC board shed valuable light not only on the prospective board members, but on this method of selecting public officials By* **MARK GEVISSER**

'SUNLIGHT is said to be the best of disinfectants; electric light the most efficient policeman." The words were said by United States Supreme Court Justice Louis Brandeis at the beginning of this century. He was talking about public hearings, not soap.

At times during the public hearings for a new SABC board in recent weeks, Judge Ismail Mahomed's scowl was closer to a raincloud than a sunbeam. And some, notably the National Party, believe that the selection panel — and Mahomed particularly — shone its light selectively. "Unfortunately," says party spokesman Marthinus van Schalkwyk, "Mr Mahomed raised a question-mark about his own impartiality by grilling some people too hard."

In a press release after SABC chairman Christo Viljoen had been asked some tough questions by Mahomed, the NP said that while it "supports tough and penetrating questioning", it "strongly condemn[s] the hostile style which marked yesterday's proceedings. What was supposed to be a public hearing was turned into an inquisition."

In parliament, Afrikaner Volksunie MP for Bethal Chris de Jager put it more strongly. Mahomed's style reminded him of Hitler's SS generals, he said. "We know about the Spanish Inquisition, and we saw what kind of inquisition is waiting for South Africa."

"Are you, or have you ever been, a member of the Afrikaner Broederbond?" was a question asked of several senior Afrikaners during the hearings. Certainly, it sounded uncomfortably similar to the notorious question during the House Un-American Activities Committee (HUAC) hearings of the 1950s. "Are you, or have you ever been, a member of the Communist Party?"

But there are several difference: firstly, the omnipotent Broederbond wreaked more misery and iniquity in South Africa than the tiny American Communist Party could ever have done in the US. Secondly, HUAC summoned private individuals against their will, while the SABC selection panel was interviewing prospective public officials for positions in which they would be directly accountable to the public.

While the hearings for the SABC board were not the Inquisition, they were far more than simply an interview procedure. They captured the national imagination because, as the first of their kind in the country, they offered South Africans a mini-Nuremburg: a moment in which the perpetrators of apartheid were forced to acknowledge their complicity and even — in a few cases — to ask forgiveness.

The hearings offered a tangible image of transition: an Indian judge dealing with the august and respectable Afrikaans chairman of the SABC as if he were a naughty schoolchild who had led the class horribly astray. But they also served as a test-run for the concept of public hearings and, as such, served vital policy functions beyond such visceral pleasure. The following critical question was asked: can and should prospective public officials be subject to this kind of open scrutiny in a democratic South Africa?

If the SABC board hearings were a test, the consensus is that they worked. Even the NP's Van Schalkwyk commented that "apart from the Viljoen grilling, we feel it went very well, and should be a model for the future".

Penuell Maduna, senior legal adviser to the African National Congress, is less equivocal. "Why should the public be treated like little mushrooms, kept in the dark and fed manure?" Through public hearings, he says, "we can inject transparency into the system, and do away with the mediocrity and corruption that has characterised 50 years of National Party rule".

How public hearings should be held — and who should be subject to them — is now a matter firmly on the political agenda. Not surprisingly, the United States is being consulted as a model. According to the US Constitution, the president may only appoint senior officials with the "advice and consent" of the Senate. These officials include "Ambassadors, other public Ministers and Consuls, Judges of the Supreme Court", and a host of other positions, including members of the Federal Communications Commission, which regulates American broadcasting. In 1989 alone, the first year of George Bush's second term, the Senate recieved more than 48 000 nominations. Most are passed pro forma — only the 600 highest-level positions underwent Senate scrutiny.

The philosophy behind the American system is that "the people", through their elected representatives, the Senators, are given the chance to vet all presidential appointees. In Germany, a similar philosophy applies, although the process is not always as open, parliamentarians are constitutionally entitled to a say in all federal appointments, and even directly appoint half of the members of the country's highest court, the Federal Constitutional Court.

In South Africa, only one of the three constitutional models currently in circulation deals specifically with public hearings: the Democratic Party's proposed Bill of Rights, issued last week, states that the upper house of the legislature, the Senate, should have "the right of approval for senior civil service (including Defence Force and Police) apointments" and "the right of recommendation" of senior judicial officers.

Neither the ANC's proposals, nor those of the Law Commission (which has done the government's constitutional work), mention the issue. This, says the ANC's Maduna, is "because the issue is so new in this country. But we are looking into it now." The legal fraternity — through the General Bar Council and the Association of Law Societies — has also just established a sub-committee to look into judicial appointments.

Should appointments be vetted by an elected parliament, or by an independent panel, as happened with the SABC board? A democratically elected body has most authority. But if a supposedly independent board, like that of the SABC, is to be appointed or vetted by parliament, isn't there the danger that the party in power — most likely the ANC — will stack it with sweethearts?

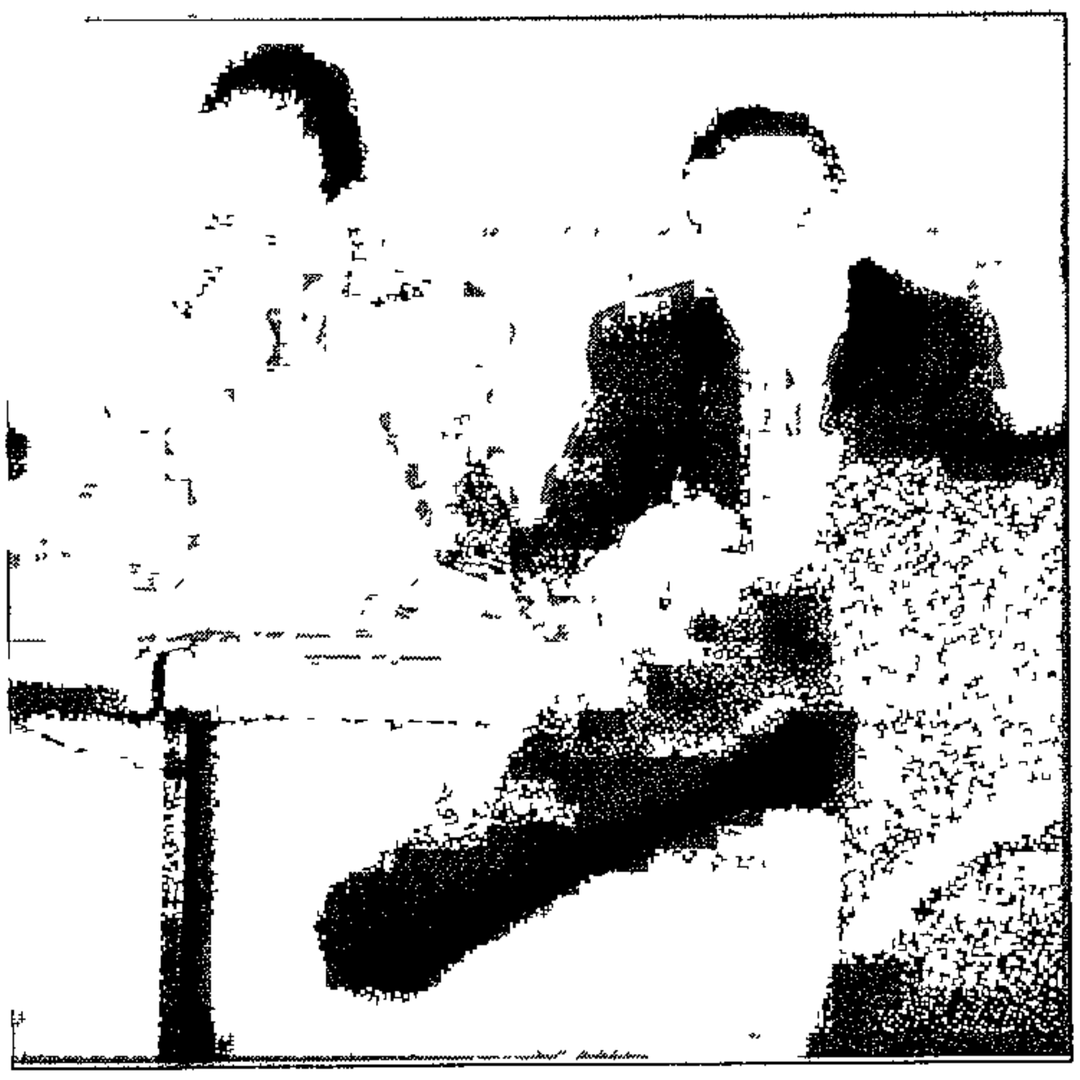
The independent panel option might seem better, but this too has its problems — primarily that it does not have the authority of democratic election. Mahomed, for example, cannot reply to his critics that he is doing "the people's" bidding. The selection panel, after all, was decided upon in horse-trading betwen the ANC and the government.

Should there be rules governing conduct, so that individuals are prevented the indignity of sometimes irrelevant public disclosure? A major criticism of the American system is that it encourages mediocrity: only those with little against them — and little to say — might apply, or accept nominations.

Whatever the pros and cons of the public hearings system, says Democratic Party legal spokesman Tony Leon, "it is the best possible approach. Not only does it lay the foundations for good government and accountability, but it brings corrupt practises to light."

If the constitution-makers learn the sunlight lesson from the SABC board appointment process, public hearings may well become the disinfectant of South Africa's transition to democracy.

● The selection panel is expected to make its decision on the SABC board today. The names will not be publicly announced, but will be forwarded to State President FW de Klerk, who has the right to challenge the panel if he is unhappy with its selection. Government sources comment, however, that De Klerk is politically bound to accept the panel's recommendations. He will formally and publicly appoint the board members by June 1.



**Judgment day** Facing Ismail Mahomed's glower at hearings for the new SABC board. Photo LUANNE CADD

# White tablecloths and dark pasts

W/Mail 21/5 - 27/5/93. (252)

*There was gravity, dignity, confession and contradiction at the inquiry into ANC camps abuses this week.*

*By* **STEPHEN LAUFER** *and* **Weekly Mail Reporters**

**Tea break ... Pallo Jordan and Dullah Omar share a breather** **Photo. LUANNE CADD**

THIS is to be the commission to end all commissions, the searching inquiry designed to lay ghosts to rest and to silence critics left and right the Motsuenyane Commission into abuses at the African National Congress' detention camps in exile

After two earlier probes and reports by Amnesty International and other groups, it is a commission chosen to restore confidence

But behind valiant attempts at gravity and a serious search for the truth lurks the distinct possibility that the commission's proceedings will become a caricature, a comedy of manners, errors and omissions

Presiding is Sam Motsuenyane, grey-haired doyen of black commerce in South Africa A man of stature, buttoned into a dark suit and a navy blue cardigan A man who undoubtedly knows commercial law backwards

To his right, a balding barrister with a nice line in incisive questioning David Zamchiya, of the Harare bar And to his left, Margaret Burnham, a former Boston judge and anti-apartheid activist of long standing who now teaches constitutional law at the Massachussetts Institute of Technology and argues civil rights cases in the courts

The clerk of the commission calls on all present to rise It's a nice touch, lending gravity to the proceedings But why has he got an American accent? And why does his suit look as though it came from Barney's in New York, rather than Deans in the Carlton Centre? And where did he get those Harvard law school spectacles?

Probably on Harvard Square Because he's a young American lawyer along for the ride with Burnham Just making himself useful

The site of the commission's hearings brings a chill to those old enough to remember Salvador Allende's overthrow in Chile Didn't Pinochet have his opponents detained and maimed in Santiago's soccer arena?

But the connotations of holding this inquiry in the FNB stadium seem to have passed everyone by Besides, the ANC doesn't have access to oak-panelled courtrooms Yet

So white ruffled tablecloths will have to do, the kind you see at functions catered for at the Transvaal Automobile Club And a 30cm platform so that the commissioners are enthroned above the proceedings Just a bit

But sitting on the Barmitzvah chairs at the back of the room, those plush, steel-tube straight-backs, it's difficult for observers to conjure up the sense of awe normally associated with a judicial inquiry into allegations of so grave a nature

Especially when Pallo Jordan, one-time ANC security detainee and of late "secretary of information", as he puts it, is called to give evidence Jordan seems to have sensed that the situation calls for some acknowledgement of its dignity, because he is uncharacteristically not wearing jeans, but trousers with a crease

Turn o.c

# Slovo, Jordan legal for one more year

Star 22/5/93

NORMAN CHANDLER
Pretoria Bureau

252

TOP ANC official Dr Pallo Jordan and SA Communist Party chairman Joe Slovo can legally remain in South Africa for another year without fear of prosecution.

President F W de Klerk has signed an extension to the Notice of Temporary Immunity under the Indemnity Act of 1990, extending the indemnity of 76 people

Among them, according to a notice in yesterday's Government Gazette, are Brian and Sonia Bunting, Jacob Zuma, Ronnie Kasrils, Gill Marcus, Thabo Mbeki, Joe Modise and Max Sisulu

# Hit squad assassination plots probed

Star 22/5/93

NEIL LEWIS

THE Goldstone Commission of Inquiry regarding the Prevention of Public Violence and Intimidation last night confirmed it was conducting an urgent investigation into allegations that six teams of hit squads had been tasked by Military Intelligence (MI) officers to assassinate African National Congress activists in the eastern and northern Transvaal

Sapa earlier revealed that a Military Intelligence operative, codenamed "Mr Z" by Sapa to protect his identity, had been given an automatic weapon, ammunition and a hit list two weeks ago by an MI officer with the aim of assassinating local ANC activists

The Chief of the South African Defence Force, General Kat Liebenberg, has denied that any directive was given at any stage to kill people in the northern and eastern Transvaal, according to a Ministry of Defence spokesman.

"If what is being alleged did take place, it happened without the sanction of the SADF," the spokesman said last night

He said the so-called "Mr Z" had left the service of the SADF early in 1991.

"The matter is in the hands of the Goldstone Commission and the SADF will give its full co-operation to the commission in its investigation," the spokesman said.

The assassinations were due to start yesterday morning, but the operative got cold feet after discovering that one of the intended victims was a close friend of a relative.

"Members of the SAP, the KwaNdebele police and the ANC are co-operating fully with the commission with regard to the investigations," commission chairman Mr Justice Richard Goldstone said in Bloemfontein yesterday evening.

He added his that commission would provide further information as the investigation progressed

In its response, the ANC yesterday demanded that the allegations by "Mr Z" be investigated with the utmost vigour

"The investigations into the Directorate of Military Intelligence thus far have obviously not reached far enough and should be pursued further Any wrongdoing uncovered during the course of such investigation should be prosecuted to the full extent of the law and be accompanied by full public disclosure," the organisation said

GOLDSTONE: Shock revelations of 'Mr Z' being investigated.

(252)

"The South African public have every reason to expect the SAP to investigate the allegations made by 'Mr Z' with vigour and prosecutions to follow," it added

The ANC added that the revelations of "Mr Z", coming so soon after the assassination of South African Communist Party general-secretary Chris Hani and the plot to kill SACP chairman Joe Slovo, could not be taken lightly.

"They testify to the continuing attempts by elements, inside and outside the De Klerk government's security establishment, to wage a dirty war of attrition directed at eliminating ANC personnel at its higher and lower structures"

In the wake of the allegations, the ANC has tightened security at the homes of its officials on the hit list. The organisation requested that their names not be released until they were all informed

This Sapa reporter was present when "Mr Z", a former member of 1105 Battalion in KwaNdebele who was recruited to MI, testified before two Goldstone commissioners — advocate J J du Toit and advocate Glen Cuthbertson — on Wednesday evening.

Permission was granted to Sapa to name ANC eastern Transvaal chairman Jackson Mthembu as one of the targets Others include several KwaNdebele Ministers known to be close to the ANC.

According to "Mr Z" — the Goldstone commissioners requested his name be withheld until the investigation is complete — he was given a 9 mm pistol on Sunday May 9, a full magazine and a hit list by a senior MI officer now based at the SADF's Group 15 at Voortrekkerhoogte, Pretoria

He was told he would be paid R7 000 for each "hit"

After going through the hit list he discovered one of the targets to be a friend of a relative

He decided to approach a friend, who turned him over to a senior South African National Civic Organisation official in KwaNdebele The Sanco official on Tuesday took him to ANC headquarters in Johannesburg, from where the Goldstone Commission was informed and an investigation immediately begun.

During his testimony, "Mr Z" gave the names, ranks and residences of his handlers, mostly based at Voortrekkerhoogte, as well as the names and ranks of alleged hit squad operatives who had travelled from the Free State, KwaNdebele and other areas to conduct the assassinations

He claimed there were six hit squad teams, each comprising two members

The idea, he said, was to kill lower-level activists and avoid public violence similar to that which followed the assassination of Hani

S/Times 23/5/93

# Strong proposals effectively guarantee liberty of the individual

(252)

**TONY LEON and ETIENNE MUREINIK take issue with Ken Owen's criticism of the Democratic Party's bill of rights**

KEN OWEN has already risked his credibility on the extravagant claim that Chief Justice Corbett's judgment restraining a magazine from publishing private information obtained by illegal phone tapping ranks with the closure of The World as a blow to press freedom.

He now stakes his reputation on an incompetent reading of the Democratic Party's draft bill of rights

Owen's first complaint is that the DP's bill of rights "puts forward a view of liberty which is parsimonious and grudging, hedged about with qualifications".

## Remedies

But Owen cites no such qualifications and offers no evidence whatever of parsimony or grudgingness

The truth is that the safeguards of liberty in the DP's bill are the strongest proposed by any party.

The DP's proposals would entrench freedom of conscience, religion, assembly, association, speech, press and thought; freedom from unreasonable searches and seizures, from cruel, inhuman or degrading treatment.

Unlike the ANC's and the government's draft bills, the DP's would fully protect academic freedom and freedom of information.

Alone among the rival bills, it requires state-controlled media to ensure diversity of opinion.

The bill's remedies against maladministration — which go far beyond any previously on the negotiating table — and its comprehensive rights of fair trial would secure individual liberty far more effectively than all Owen's hot rhetoric

Indeed, over half the bill gives the citizen concrete remedies and safeguards against the state. None of this, of course, is conclusive proof of the strength of the protection given by the DP's bill to liberty The real test is the limitation clause.

Learning from internationally-respected charters of rights, all parties recognise that at least some rights have to be capable of limitation. The right of free speech, for instance, would, if left unlimited, annul legal protection against defamation, an indispensable safeguard for human dignity

But the narrower the clause which permits limitation, the stronger the rights in the bill. The DP's limitation clause is the narrowest of those being proposed.

It requires any limitation to be "demonstrably necessary in a free, open and democratic society", and to comply with South Africa's international law obligations — constraints far stricter than in the much-admired Canadian equivalent.

## Luxuries

What is more, most of the rights in the DP's bill are made absolute and illimitable.

All of which makes Owen's objection on the score of liberty just plain silly

Owen's second gripe is about equality What excites most of his venom is that the bill permits what might otherwise be outlawed as discrimination if it is part of a rational programme intended to remedy substantial inequality

It is, no doubt, this feature which inspired Owen's verdict that the bill "sets out not primarily to secure liberty, but to undo the injustices of apartheid It is a plan to win the last war".

The truth, as anyone in touch with reality knows, is that the war against apartheid is far from won — and to win it, we need to aspire to both liberty and equality.

We cannot possibly hope for equality until we begin to undo inequality. Until then, the liberties we prize so much will remain luxuries to be enjoyed by the privileged.

This is something the entire political mainstream recognises, including the government, whose bill explicitly permits affirmative action.

Owen's opposition to this kind of permission — and it is permission, not compulsion — puts him to the right of the government, among the pre-De Klerk reactionaries who think that justice means freezing the huge disparities in opportunity wrought by decades of racial domination into immutable law.

Owen's final sally is against the entitlements in the bill to the essentials of life: to the food and water necessary for survival, to shelter from the elements, to basic health care, to a basic education and to a clean and healthy environment.

## Guardian

Here Owen's complaint is that the bill gives generous powers to the courts. Again, the problem is the casualness of Owen's reading.

The provision immediately after the one which Owen cites makes it plain that it is the prerogative of the lawmakers and the executive to decide how to deliver these entitlements.

The courts come into the picture only when they review the actions of those organs of government to ensure their reasonableness.

This widely-acclaimed provision gives the courts the role merely of guardians against government neglect and abuse.

The problem — whether it is when Owen offers hysterical censure of a perfectly reasonable judgment of a highly respected chief justice or when he fulminates about the DP's bill — is that he simply does not seem to take the trouble to read before he rants.

● Tony Leon, MP, chaired the DP's bill of rights committee. Etienne Mureinik, Professor of Law at Wits University, served as a consultant to the committee.

# I am not scared of anyone, says muti-man Jamile

C/Press 23/5/93

252

By FRED KHUMALO

"NO one walking on two feet will do anything to me ... I'm not scared of anyone"

That's what former KwaZulu deputy interior minister and prominent inyanga Samuel Jamile said in response to rumours that he feared for his life in the wake of the uproar that followed his release on Monday

Jamile, sentenced for life in connection with a murder and an attempted murder, was released on Monday in terms of the Further Indemnity Act

"Those who interfere with my life do not live long," said the former president of the National Inyanga Association, citing the potency of his muti as the sole reason for his speedy release from prison

## Exclusive

In an exclusive interview with City Press he added that those who had made attempts on his life were either dead or paralysed

Madala Mnyandu, cited in court as the man who hurled a handgrenade at Jamile in 1988, is currently in prison He lost sight in one eye and one leg is paralysed after the attempt on Jamile's life

Jamile even mentions the name of the now late Justice Mitchell, who sentenced him to life imprisonment two years ago, as proof of the potency of his muti

"Mind you, I'm a healer, not a killer My muti is life-giving It gives me life and protects me against my enemies," said Jamile

He dismissed rumours that he had fled from his Clermont home to Ulundi

"I'm here in Ulundi temporarily, getting my pharmacy back into gear As soon as I'm satisfied that it is operating properly, I'm going back to my home in Clermont"

Jamile said he was still willing to stand for election to the KwaZulu Legislative Assembly as "politics is my life"

However, he said he had been advised by his lawyer to take a break from active politics until the furore over his release dies down

Formerly a teacher in Marianhill, near Pinetown, Jamile had two muti shops – one at KwaDabeka near Clermont and one in Ulundi – before his arrest

The wealthy inyanga rose through the ranks of Inkatha, becoming a Central Committee member and a member of the KwaZulu Legislative Assembly before his appointment as deputy interior minister in 1989

Among perks that came with the job were two chauffeur-driven Mercedes Benzes.

He has survived at least three assassination attempts

Then came the marathon trial which ruined him financially After paying R200 000 to lawyers and ceding his properties as security, Jamile eventually ended up needing a Pro Deo counsel

"Those who fear me need to be cured of their unfounded fears," he said good-humouredly.

Jamile's detractors also seem to be convinced of the potency of his medicine Legend goes that in the late '80s, when youngsters attempted to firebomb his Clermont home, they saw "huge waves from an angry ocean rushing at them"

## Quoting

On the question of whether he is a political prisoner, Jamile bursts forth "I have never killed anyone whether for political or personal reasons But if the state deems it fit to classify me as a political prisoner, what can I say? If my muti can make the state come to its senses, should I complain?"

Jamile, who likes quoting from the Bible, said. "I will die only when God and my ancestors say the day has come At the moment I'm busy concocting life-giving muti that will heal the nation"

# Judge denies reports

C/Press 23/5/93

(252)

THE Goldstone Commission has distanced itself from news reports on Thursday that top level SAP and SADF investigations have found no irregularities in the intelligence service which warrant criminal prosecution.

He was reacting in a Johannesburg press statement to reports, citing "good authority," in Thursday's Afrikaans morning newspapers.

"The investigations which were announced by the State President on December 19 1992 have certainly not been concluded, the Commission has not been given any information into the conduct of the two SADF officers, and it has expressed no satisfaction therewith," Goldstone said — Sapa

S/Times 23/5/93

# Goldstone disarms claim

INVESTIGATIONS so far have shown no evidence of any involvement of the SADF and Military Intelligence in six teams of hit-squads that had allegedly been asked to assassinate ANC activists in the eastern and northern Transvaal, Mr Justice Richard Goldstone said yesterday. (252)

Mr Justice Goldstone said that the firearm that an MI operative code-named "Mr Z" claimed was given to him by an MI officer was owned by and licensed in the name of a nephew of "Mr Z". Investigations revealed the firearm had been stolen from the owner following a visit from "Mr Z" and that a charge of theft had been laid

NEWS ROUND-UP

# ANC camps probe goes to Tanzania

THE Motsuenyane commission of inquiry into torture in ANC camps outside SA travelled to Tanzania this weekend to investigate conditions in remaining camps.

A fortnight ago, the German-based International Society for Human Rights called on the commission to investigate existing ANC detention facilities in Tanzania and Uganda and to ensure the release of any prisoners still held. S/Times 23/5/93

The ANC says all prisoners have been freed. Testimony will be heard next week from victims of torture or the families of exiles who have "disappeared".

The ISHR also called on the commission to recommend that those who transgressed human rights should not be allowed to hold office in the ANC or a future government. (252)

Last week, senior ANC officials told the commission the movement — though a signatory to the Geneva Convention — became paranoid because of spies in its ranks responsible for killings and bombings.

## Plea to halt executions

ANC president Nelson Mandela and Foreign Minister Pik Botha had appealed to Venda Military Council chairman Brig Gabriel Ramushwana to halt the executions today of Frans Netshirombeni and Wilson Nelukalo, a Lawyers for Human Rights spokesman said at the weekend.

The two men were convicted of ritual murder in 1990 (252)

The spokesman said the Venda government was party to a decision taken at Codesa in 1992 to halt executions

B/DAY 24/5/93

odge urgent court application ● PAC leader lauds Apla operations

# Bid to stop executions

Sowetan 24/5/93

■ **FRANTIC PLEA** Mandela and Pik ask Ramushwana to stop hangings:

LAWYERS for Human Rights were last night scheduled to bring an urgent application to prevent the planned executions today of two prisoners in Venda, LHR spokesman Mr Andries Nel said at the weekend

(252)

### Appeals to Venda

In a statement in Pretoria, Nel announced that Foreign Affairs Minister Mr Pik Botha and African National Congress president Mr Nelson Mandela had issued appeals to Venda Military Council chairman Brigadier Gabriel Ramushwana to halt the executions of Mr Frans Netshirombeni and Mr Wilson Nelukalo today

The two prisoners were convicted and sentenced to death for a ritual murder in June 1990

He further said the LHR found Ramushwana's decision "completely unacceptable" in the light of the fact that his government was party to a near-unanimous decision taken at Codesa in April 1992 to suspend executions, pending the negotiations of a new constitution

"If it weren't for Brigadier Ramushwana's history of breaking promises regarding the death penalty, we would have found this sudden about-turn outlandishly incredible"

### Last minute appeal

Nel said that in February 1991, two prisoners were executed less than a week after four death row prisoners had been reprieved following an urgent application brought by the LHR and a last minute appeal by Mr Mandela

The executions came days after Brigadier Ramushwana gave an undertaking that Venda's death penalty laws would be reviewed, Nel said

He said it should be clear to Ramushwana that the future of Venda was "inextricably linked" to that of South Africa

"We find it unacceptable that he chooses to act unilaterally on a sensitive and emotional issue as the death penalty when executions have been suspended in South Africa, Bophuthatswana and Transkei, and abolished altogether in Ciskei" — *Sapa*

See page 8

# Urgent bid to halt Venda hangings

(252)

CT 24/5/93

PRETORIA — Lawyers for Human Rights was to bring an urgent application last night to prevent the planned executions today of two prisoners in Venda, LHR spokesman Mr Andies Nel said at the weekend.

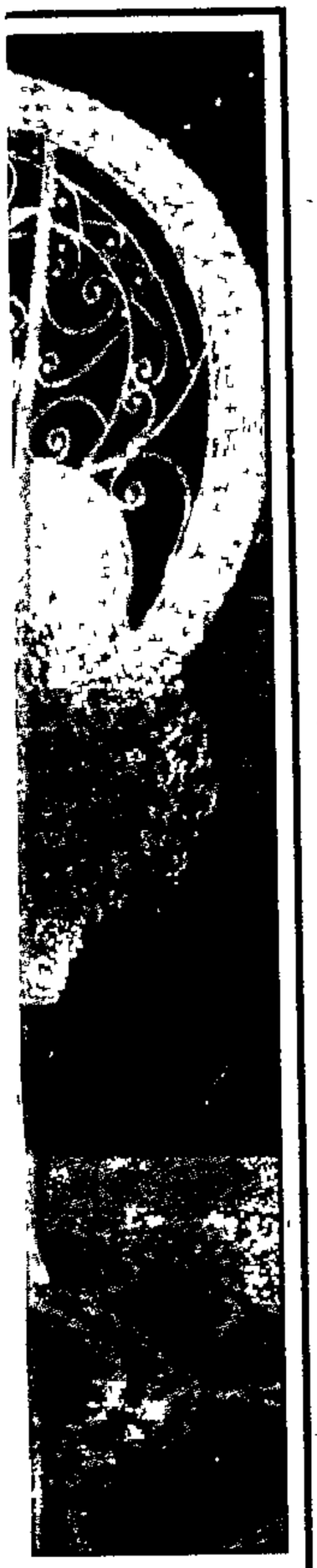
In a statement here, Mr Nel said Minister of Foreign Affairs Mr Pik Botha and African National Congress president Mr Nelson Mandela had issued appeals to Venda Military Council chairman Brigadier Gabriel Ramushwana to halt the executions of Frans Netshirombeni and Wilson Nelukalo.

The two prisoners were convicted and sentenced to death in June 1990 for a ritual murder.

## Promises

Mr Nel said the LHR found Brig Ramushwana's decision "completely unacceptable" in the light of his government's being party to a near-unanimous decision taken at Codesa in April 1992 to suspend executions pending the negotiations for a new constitution.

"If it weren't for Brig Ramushwana's history of breaking promises on the death penalty, we would have found this sudden about-turn outlandishly incredible." — Sapa



# Hani culprits' lawyers apply for more time

Sowetan 24/5/93

■ **Defence team wants to prepare:**

**By Mzimasi Ngudle**

LAWYERS for three suspects in the murder of South African Communist Party leader Mr Chris Hani have indicated they will apply for a further postponement when the trial resumes in the Rand Supreme Court on June 23.

The suspects, Mr Januz Walus, Mr Clive-Derby Lewis and his wife Gaye, were remanded in custody after the Attorney-General, Mr Klaus von Lieres, said the granting of bail was likely to "adversely affect public safety".

All three lawyers told magistrate Mr Jurg Vivier in the Boksburg Magistrate's Court on Friday that they had not been consulted and needed more time to prepare the defence case.

Walus, dressed in a brownish-grey suit, stood emotionless when it was announced that the three would face charges of murder, conspiracy to murder and illegal posession of a firearm and ammunition.

The bespectacled Derby-Lewises, both clad in navy jackets, smiled uneasily, waving to family and friends as they were taken back into custody

# ANC, Inkatha call for Thokoza probe

(252)

MARIANNE MERTEN and KATHRINE STRACHAN

THE ANC PWV region and Inkatha called separately yesterday for an independent commission of inquiry into the Thokoza shootings on Saturday in which 13 people died and more than 60 were injured.

Both organisations said an investigation was needed because it was unclear who fired the shots. B/DAY 24/5/93.

An emergency meeting of the Wits/Vaal regional peace committee is to take place tomorrow to review events that led to the shootings

In Newcastle yesterday, Sapa reports that ANC president Nelson Mandela told a public meeting the killings were part of attempts to scuttle negotiations.

The ANC leader again accused elements of the security forces of fomenting violence, but said the ANC would not break off talks.

He said whenever there was a breakthrough in negotiations, there was an upsurge in violence. "Someone is switching on and off the violence, depending on developments in negotiations."

Police spokesman Capt Wikus Weber said senior police officers were conducting a criminal investigation into the incident. Two marchers were arrested and six AK-47 rifles were confiscated. Another AK-47 was taken from one of the marshals, he said

Weber could not comment on the police

☐ To Page 2

## Thokoza

B/DAY 24/5/93. (252) ☐ From Page 1

action because requests urging a route change and the return of Inkatha supporters to their hostel were not adhered to

Police confirmed the township was still tense yesterday as nearly 300 Inkatha supporters marched from the hostel to a nearby bridge to remove anti-Inkatha graffiti painted by marchers on their way to Thokoza

ANC PWV regional committee member Mondli Gungubele told a media conference it was not clear what had triggered the shooting, while an Inkatha statement said the conflict erupted between ANC marchers and Thokoza residents.

Inkatha spokesman Themba Khoza said its investigations showed the ANC march was planned as an attack on Inkatha supporters He said that although there were more direct routes, the marchers chose Khumalo Street because it passed Inkatha hostels

Khoza added there had been a serious breakdown in communications as Inkatha had not been informed of the march. He denied the claim that permission had been granted for the march a week in advance

ANC PWV regional branch chairman Tokyo Sexwale said the marchers had not sought confrontation People always marched on this route. He said the provocation had always come from the hostel, which had been described as a "flashpoint" by the Goldstone commission.

The march had not been against the hostel dwellers but was part of the mass action campaign to speed up the negotiation process.

ANC PWV regional branch secretary Paul Mashatile said it was important to broaden the investigation, possibly to include overseas experts.

Gungubele also confirmed that some of the marchers had been carrying cultural weapons. Although the ANC was opposed to this, it was difficult to address the issue because of Inkatha's reluctance to deal with it, he said.

A consumer boycott of Alberton would start today Business was expected to use its influence to stop Alberton becomming an AWB and CP town, he said.

● Picture: Page 3

did not believe any prospect of the matter went

tie me up for another six months to a year in litigation — it's pure vindictiveness".



Association of SA, the competition is aimed at children from Grade 1 to Std 5

by David Waisglass
Gordon Coulthart


. once you cut it, I have to coming back.'

# Commission will probe Lenasia corruption claims

Star 24/5/93

By Cyril Madlala

The Transvaal Administrator has appointed a commission of inquiry into alleged corruption, irregularities and maladministration in the Lenasia South East Management Committee.

Complaints to be investigated by the commission include allegations of mismanagement, theft, fraud, kidnapping, assault and grievous bodily harm.

A spokesman for a group of residents who have taken the matter up with various authorities said the alleged incompetence of the management committee was cause for "grave concern". This had reinforced the community's desire for amalgamation with the Johannesburg City Council.

He alleged that violations of regulations, unethical conduct and adoption of resolutions beyond the management committee's powers were being swept under the carpet "in order not to rock the boat" for fear of the management committee members losing their pensions and payout packages.

It is understood that complaints, supported by sworn affidavits, have been lodged with the chief auditor of the Local Government Affairs Council in Pretoria, alleging:

- Misuse of management committee vehicles.
- Theft of its property, such as bricks and steel railway sleepers.
- Fraudulent entries in motor vehicle log-sheets by staff.
- Staff being used during office hours to do private work at committee members' homes.

**Bogus**

- Non-compliance with industrial council requirements in respect of appointment and promotion of staff.
- Condoning falsified applications for employment.
- Appointment and promotion of family members.
- Allocation of properties to members of the management committee using fictitious and bogus names and companies.

Residents who have taken up the matter with the authorities have demanded immediate suspension of the entire management committee and senior officials, and the installation of a caretaker body or officials

While calling for the appointment of a commission of inquiry, they want a moratorium on all town-planning matters and on the signing of all agreements, contracts and tender documents.

A notice in the official gazette named the commission members as J M Griffiths and P J Geers

A spokesman for the Transvaal Provincial Administration said the commission would start its investigations as soon as certain technical problems regarding its appointment had been resolved.

People wishing to submit evidence can write to The Secretary, The Commission of Inquiry into the Lenasia South East Management Committee, Box 1341, Pretoria 0001.

## Girls missing

Police are still hunting for two Transvaal teenagers — one of them a CCV television presenter — who went missing from Margate on Friday.

Lorna Karon and Cian Gray, both 17, left a note in the flat where they were on holiday with Lorna's family. Lorna presented CCV's *Maths No Problem*.

Both are about 1,6 cm tall and brown-haired. — Crime Reporter.

## FOR THE RECORD

A report from our Durban correspondent on May 19 said a visitor to the United States would have to pay R102 to be inoculated against yellow fever and cholera A spokesman for Turbo Travel in Johannesburg says neither inoculation is needed for a visit to the US they are required for travel only to certain countries in South America However, people travelling to the US via any of these countries would need the inoculations.

# Mandela comforts bombing victim

Star 24/5/93

By Happy Nkhoma

The wife of an African National Congress official has described to Nelson Mandela the terror she experienced during two petrol-bomb attacks on her Soweto home

On Friday Nomsa Mufamadi — wife of Peace Desk chief Sydney Mufamadi — was telling The Star about the attacks last week, which had left her numb with fear, when Mandela arrived unexpectedly.

She told the ANC leader how, on the night of the first attack, she had run blindly to the burning lounge and been pulled to safety by her daughter, Lindiwe (12)

Lindiwe had then telephoned neighbours and the police

Mufamadi told Mandela she had been uneasy ever since an unknown person phoned the Alpha Page paging company about two weeks ago, saying her husband had been assassinated

Mandela told her the attacks were the acts of people who were against peace and progress in South Africa


# ANC,

By Paul Bell

The ANC and IFP yesterday offered sharply different

90c PWV (R1,00 OUTSIDE PWV, NATA

# Torture 'at ANC camps'

Sowetan 25/5/93

By Ruth Bhengu

■ Ex-MK man locked in dark cell for eight days - claim:

A SENIOR member of Umkhonto we Sizwe told the Motsuenyane Commission of Inquiry in Johannesburg yesterday that the ANC had punished its members for refusing to fight against Unita in Angola. (252)

Mr Martin Phiri, a former MK commander and political commissar, was testifying before the first public hearing into violations of human rights allegedly committed by ANC members against their prisoners in exile.

Phiri was cross-examined by defence counsel Mr Seraj Desai.

He told the commission he was held at Quatro camp between 1984 and 1988 and released after the late Mr Oliver Tambo had visited the detention camp

He said members of the ANC's security forces, including Lawrence (ANC president Mr Nelson Mandela's bodyguard), acted as prison warders and locked them in dark cells without blankets Phiri said they were not allowed to leave the cells for eight days.

He said they were forced to lie on their stomachs while the warders whipped them with electric cords.

"People who had been arrested for smuggling diamonds and such things were treated better than us," Phiri said

The organisation's leadership, including army commander Mr Andrew Masondo, Mr Joe Modise and the late Mr Chris Hani, knew about their detention but did nothing about it, he said

# *focus on* human rights

**Affluence has brought greater freedom to East Asia as authoritarian military regimes were replaced by civilian governments. But they are rebuffing United States moves to champion human rights in their region:**

Sowetan 25/5/93

**TOKYO** — The increasingly affluent nations of Asia are rebuffing United States moves to champion human rights in their region with warnings that Washington should mind its own business

And there won't be much help on the issue from Japan, a nation wary of preaching human rights to neighbours still bitter about the atrocities it committed throughout the region before and during World War 2

Although human rights abuses persist, affluence has brought greater freedom to East Asia in the past decade as authoritarian military regimes were replaced by democratically elected civilian governments

But many Asians view Western pressures for even more freedom — particularly when linked to trade issues — as unwarranted meddling

"Human rights are becoming part of Asia's vocabulary but they must be allowed to evolve within an indigenous context," Mr Amnuay Viravan, deputy prime minister of Thailand, said at a recent Asia Society conference in Tokyo

At a forum on human rights in Thailand's capital, Bangkok, representatives of 49 Asian countries jointly accused human rights groups of imposing inappropriate Western values

They set a united front for a United Nations conference on human rights in Vienna, Austria, in June by agreeing that the issue should be considered within the context of cultural differences

At that meeting, a showdown is expected between Washington and developing nations led by China, Pakistan and Iran over Western demands for a powerful UN commissioner to clamp down on human rights violations

Mr Winston Lord, assistant secretary of state for East Asia and Pacific affairs, has indicated human rights will receive high priority in US dealings with the region

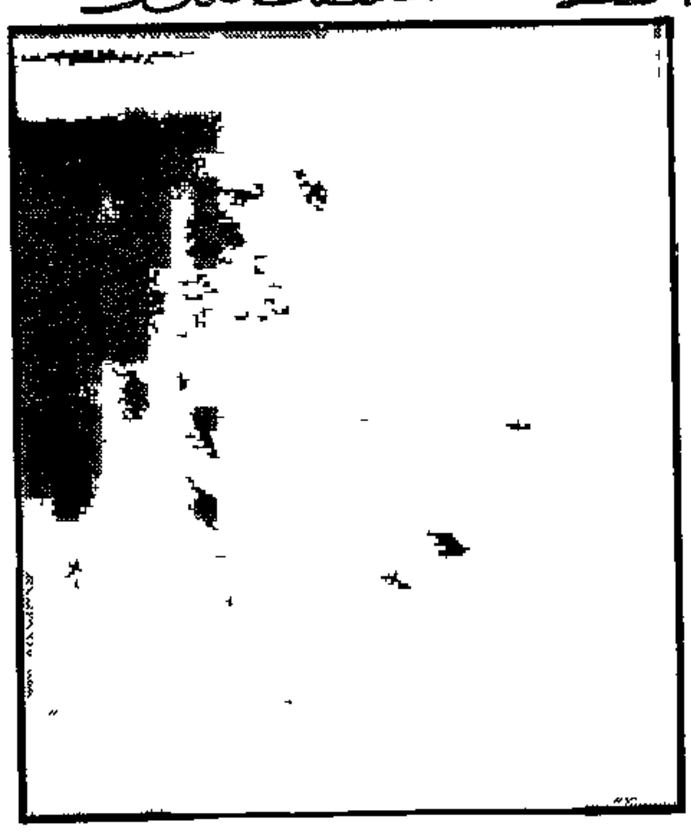
## High priority

China, Burma and Vietnam are among the nations likely to face harsher scrutiny from the Clinton administration for repressing dissent and jailing political prisoners

"The United States looks at promoting democracy as something in its national interest, not just a reflection of its values And we think it's in the global interest," Lord said at the Asia Society conference

"The fact is that open societies do not make war on each other They make better trading partners, they do not practise terrorism and they do not produce refugees "

President Clinton is scheduled to decide by June 3 whether to attach conditions to renewal of regular trade ties with China There is strong support in Congress for tying renewal to improvement in China's human rights record



**Bill Clinton ... told to mind his own business.**

(252)

Many Asian leaders disagree They support China's argument that only a strong dose of authoritarianism can ensure the stability needed for economic development

"The new generation (Chinese) leaders, are better educated, more market oriented and pragmatic But they are not closet democrats," said Mr Goh Chok Tong, prime minister of Singapore "And who is to say they are wrong? They do not want China to descend into chaos Neither does the rest of Asia."

Beijing has tried to deflect criticism by releasing some dissidents arrested in the crackdown of the 1989 democracy movement and by offering assurances that prominent political prisoners are in good health

But human rights groups charge that China has imprisoned more political prisoners in Tibet recently They also contend the health of Mr Wang Juntao, a dissident sentenced in 1991 to 13 years as an instigator of the democracy protests, is deteriorating rapidly

Chinese leaders say their decision to suppress political dissent is justified for the sake of social order

The leaders of many other Asian countries also stifled political opposition as they guided their countries slowly towards democracy They tend to agree that too much freedom could incite racial violence or other forms of social unrest

The Asian political tradition of "benevolent authoritarianism" has tended to reinforce that belief

Many Asians in more democratic countries, like Thailand, Singapore and Taiwan, now relish increased freedom of expression, political activism and travel But they look askance at Western nations they believe are paying the cost of too much individual freedom with high crime rates and other social ills

## Quiet persuation

Many Japanese officials share that sentiment. They say pushing Beijing harder on human rights will only isolate China and argue quiet persuasion will do more than economic or diplomatic sanctions to bring change

Writing in a recent issue of the Japanese Foreign Ministry's Diplomatic *Forum* magazine, expert Mr Yukio Satoh argued that in China's case "Sudden changes would only invite chaos, flooding neighbouring countries with refugees and destabilising the region "

Tokyo has moved more cautiously than Western nations in reacting to human rights violations in China and Burma

The Burmese military junta has refused to allow a democratically elected government to take power and has kept opposition leader Mrs Aung San Suu Kyi, a Nobel peace laureate, under house arrest for almost four years

"We have no ambition to play a leading role among Asian nations in the field of human rights," said Mr Yakata Yoshizawa, a Japanese delegate to the Bangkok human rights conference in March

## Break ranks

Japan did break ranks with other Asian nations at that conference, saying their resolution sacrificed support for civil and political rights in favour of regional differences

Tokyo also has begun linking its foreign aid to human rights concerns and has cut off new aid to Burma

But Japan has kept a low diplomatic profile in Asia since failing in its attempt to conquer the region during World War 2

Recent disclosures about the government's involvement in forcing Chinese and South Korean labourers to work in Japan and Asian women to work in brothels for its troops have further weakened its stance

# Bills revoke homeland autonomy

Star 26/5/93

(252)

Two Bills to facilitate reincorporation of the self-governing territories into SA were tabled in Parliament yesterday.

The main objective of the Revocation and Assignment of Powers of Self-Governing Territories Bill is to provide for the manner in which the autonomy of self-governing territories can be revoked.

The Bill empowers the State President to revoke the legislative powers and executive authority of any self-governing territories, provided he has the consent of the government of the particular territory.

The Joint Administration of Certain Matters Bill empowers the State President to place certain matters, at present administered in separate departments and in the self-governing territories, under a single department. — Sapa.

# Changes to permit joint voting on Bills

Star 26/5/93

Political Staff

CAPE TOWN — Changes are to be made to the constitution to allow MPs of the three Houses to vote together for the first time in the history of the tricameral Parliament

This simple-majority rule will come into play as a deadlock-breaking mechanism if one of the three Houses refuses to pass a Bill

At present, if one of the Houses rejects a Bill, it is referred to the President's Council to break the deadlock

In effect, this means rubber-stamp approval

In terms of the Constitution Amendment Bill tabled in Parliament this week by Constitutional Development Minister Roelf Meyer, the President's Council is to be dissolved

Disputed Bills will go to a joint sitting of the three Houses.

A majority of members present will decide whether to accept or reject the Bill

This use of a simple majority differs from the National Party's stand at multiparty negotiations

There, it is demanding that Bills presented to the first democratically elected parliament would have to be passed by a two-thirds majority.

In the unlikely event of one of the Houses opposing the NP on any Bill in the last months of the tricameral Parliament, the NP could easily have the Bill passed at a joint sitting, as it holds 167 of the 308 seats.

# Stop blaming the SAP – Myburgh

Nearly R4 million had already been spent in legal costs to refute allegations against the SAP at hearings of the Goldstone Commission, Deputy Minister of Law and Order Gert Myburgh said yesterday Star 26/5/93

Speaking during debate on the Law and Order vote, he said untested allegations that the SAP had been involved in violence or so-called third force activities were often presented as facts (252)

While the Government would not hesitate to act against any member of the SAP involved in such activities, many of these allegations had subsequently proved to be false

"Some organisations, particularly the ANC, often send up flyers for cheap propaganda which they know to be rubbish. It costs an enormous amount of money to refute and disprove these allegations"

Myburgh appealed to all political groups to stop their propaganda campaign against the SAP — Sapa

# Special probe into 'Hani violence'

B/DAY 26/5/93.

ADRIAN HADLAND

PRETORIA — The outbreak of violence and looting which followed the assassination of SACP leader Chris Hani last month will be discussed by a specially created committee of the Goldstone commission today and tomorrow.

The committee, made up of representatives from the security forces, the ANC, Inkatha, local authorities and the national peace secretariat, would examine measures for avoiding a repetition of the events surrounding Hani's death, a Goldstone commission spokesman said

Despite calls for peace from political leaders and a massive security operation involving 23 000 soldiers and police about 30 people died, hundreds were injured and widespread looting and damage to property characterised the aftermath of the assassination

An estimated 100 rallies were held nationwide involving hundreds of thousands of people

Among the topics to be discussed by the committee, which will meet in camera, are the failure of political parties and march organisers to prevent the violence, reasons for the damaging and looting of buildings and the cause of violent incidents at a number of police stations.

In the worst of the violent incidents at police stations, three people were killed and 200 injured at Protea police station in Soweto

The spokesman said the committee, chaired by Gert Steyn, would report its findings to the commission for the formulation of recommendations aimed at preventing a repeat of such widespread violence

The committee would meet for the first time today, the spokesman said. It held a preliminary hearing last month

# Committee begins work on emergency number network

B/DAY 26/5/93.

ADRIAN HADLAND

PRETORIA — A government think-tank met yesterday to thrash out the details of a plan to provide a nationwide emergency telephone number

The number would be 107, a Local Government Department spokesman said

The plan involved dividing SA into 38 regions, he said. Each would have its own emergency centre giving immediate access to fire, ambulance and security services

The emergency network would have to be phased in gradually

However, the system could commence operation in some areas by the end of the year

The decision to establish an emergency network for SA was announced in Parliament last month

Its implementation was discussed by an interdepartmental committee yesterday

Committee members agreed that each of the 38 regions would have to fund the creation of their own centres, possibly through a phone bill levy

The system would give most citizens quick access to emergency services and would provide rapid inter-regional communication and access to resources in the case of larger disasters, the spokesman said

Legislation was being formulated to enable the setting up of emergency centres It was expected to be tabled in Parliament as soon as possible

The spokesman said the committee was investigating the minimum financial and technical requirements and a communication strategy for the system

He said the number 107 had been decided on through a process of elimination Emergency numbers in other parts of the world, such as 999 or 911, were used in SA as international dialling codes

# Govt urged to tighten ban on weapons

B/DAY 26/5/93.

WILSON ZWANE

POLICE yesterday recommended to government that legislation governing the carrying of dangerous weapons at public meetings be tightened

An informed source said yesterday existing legislation and a government proclamation, published in the Government Gazette in February, prohibited the carrying of dangerous weapons only at public gatherings that were held in unrest areas

The source said police had submitted proposals to government for the prohibition on the public display of dangerous weapons to be extended to non-unrest areas

Asked why police did not disarm people at public gatherings, the source said police intervention could worsen the situation He said the carrying of certain weapons was part of a "cultural heritage" of certain groups

The source said that as long as people did not intend using the weapons they were carrying, police did not interfere with their right to gather or march

The source said it was often impossible for police to attempt to disarm demonstrators because the police were invariably outnumbered during these gatherings

ANC spokesman Carl Niehaus said the increase in the incidence of ANC supporters carrying dangerous weapons at meetings or during marches in recent months could be attributed to government's failure to implement the record of understanding, in terms of which the public display of traditional weapons was banned

The record of understanding was signed by government and the ANC last September

Niehaus said in light of government's failure to implement the agreement, it was understandable that some people, who feared for their lives, should carry weapons to defend themselves

However, he said, the ANC was trying — through the national peace accord structures — to have the ban on the carrying of dangerous weapons enforced

Discussions should be held — in peace accord structures — in this regard, Niehaus said

Actors thrilled over success of movie

# Hostel men burnt looted goods

Sowetan 26/5/93

By Tsale Makam

## ■ BOIPATONG MASSACRE Alleged warning from IFP officials after attack:

THE Inkatha Freedom Party's Humphrey Ndlovu and Themba Khoza told KwaMadala Hostel dwellers to burn everything they had looted at Boipatong during an attack on residents last year, the Delmas Circuit Court heard yesterday

A witness said Ndlovu and Khoza were addressing a meeting at the hostel "a day or two" after the dwellers had attacked Boipatong on June 17.

Although he was among the attackers, the witness said he turned State witness at his own wish

Thirty-two men from the KwaMadala Hostel have pleaded not guilty to 45 charges of murder resulting from that attack. The witness has identified most of them as having taken part in the attack.

He had earlier testified that he only broke windows at the houses during the attack while others, armed with an assortment of weapons including AK-47 rifles, broke down doors and entered the houses

Some of the attackers had emerged from the houses carrying TV sets, radios and other items

On arrival at the hostel, the attackers gathered at the stadium where they were told to go and check on those who did not join the attack.

"We refused, saying we were tired and wanted to sleep," the witness said

"The next day (June 18), at another meeting, we danced and sang a song that went *'Umkhonto ubomvu ngegazi'* (The spear is red with blood) "

They were told by one of the accused that 37 people had been killed in the previous day's attack.

The meeting addressed by Khoza and Ndlovu took place after police had raided the hostel, confiscating an assortment of weapons "They (Ndlovu and Khoza) also told us to burn all the stuff looted during the attack We were told to burn all clothes that had blood on them and not to try to wash them "

# Van Rooyen's death penalty overturned

(252) Star 26/5/93

BLOEMFONTEIN — The Appeal Court in Bloemfontein has substituted 25 years in jail for the death sentence Phillipus Hendrico van Rooyen — son of Pretoria paedophile Gert van Rooyen — received for murdering a 15-year-old Zimbabwean girl.

The court dismissed his appeal against his convictions for murdering Naena Ndou and mutilating her body.

The girl was last seen alive 15 days before her body was found in a shallow grave on a farm on the bank of the Limpopo River on June 26 1991

Van Rooyen was attending an army camp in the area when the crimes were committed

He was convicted by Mr Justice D J Curlewis in the circuit court at Louis Trichardt on November 6 1991

Mr Justice F H Grosskopf said yesterday it had been argued that the State had not proved Van Rooyen had intended to kill the girl and that he should have been found guilty of culpable homicide

The most favourable inference that could be made from the facts was that Van Rooyen did not have the direct intent to kill her, but he should have foreseen she could die.

In the judge's view, Van Rooyen did have the necessary intent to kill and the appeal against the murder conviction could not succeed

## Mutilated

The probabilities were overwhelming that it was Van Rooyen who had mutilated the body He had not testified to deny this. In the judge's view, Van Rooyen was also correctly convicted on this count

There were many aggravatory factors It was a senseless murder of an innocent young girl Van Rooyen was in a position of power against this "illegal immigrant" and he apparently wanted to exploit this power so he could have intercourse with her

The judge said it was clear the murder was not planned Even when Van Rooyen hit the girl with his rifle, it was possibly done to subject her to intercourse and not to kill her

He could not agree with the trial judge's finding that the murder was planned and had not occurred suddenly The finding that he had acted suddenly made his action less blameworthy

Mitigatory factors were that Van Rooyen was a first offender at the age of about 30 and before these events had a fixed job

Despite his personality disturbance, it was possible he could be rehabilitated

The judge said the aggravatory factors weighed heavily, but when the mitigatory factors and the main aims of sentence were also considered, he was not convinced the death penalty was the only proper sentence The death sentence should be replaced with a sentence of 25 years' imprisonment

Mr Justice E M Grosskopf and Mr Justice Howie (acting judge of appeal) concurred — Sapa

ensure that this document to which he referred cannot easily be forged In the second place, it is procedure to make use of fingerprints

Any person can be bribed in any circumstances No country in the world can prevent people from being bribed or forgery from taking place We can introduce measures, however, to prevent this I referred again to the document itself and to the fact that the procedures in all respects required fingerprints and also that we had made the legislation much stricter earlier this year We increased penalties, from a fine to two years imprisonment, and six months' imprisonment was increased to five years' imprisonment [Interjections ]

I submit that it is very easy to present vague allegations here Hon members should present more positive proof and solutions I submit that this Government introduces the sternest measures to strengthen our identity documents

Debate concluded

QUESTIONS

†Indicates translated version

*For oral reply*

*General Affairs*

**SABC· footage of Mr Hani's death/funeral**

*1 Mr J H W MENTZ asked the Minister of Home Affairs

(1) Whether the South African Broadcasting Corporation was requested by the Goldstone Commission recently to furnish full and unedited footage of video material in respect of the death and funeral of Mr Chris Hani, if so,

(2) whether this request was acceded to, if not, why not, if so, to what extent,

(3) whether he will make a statement on the matter? B810E

†The MINISTER OF HOME AFFAIRS

(1) Yes

(2) Yes, all available material was furnished to the Goldstone Commission The SABC does not keep all unedited versions of material, because the video cassettes are used repeatedly All available material on the Hani funeral was however furnished to the Goldstone Commission

(3) No

†Mr J H W MENTZ Mr Speaker, arising out of the reply of the hon the Minister I wish to state that we have information that the footage of events inside and outside the stadium which was handed to the Goldstone Commission contains only positive aspects which portray the ANC in a positive manner and that the events surrounding the intimidation and the burning of people and animals were not supplied to the Goldstone Commission

†The MINISTER Mr Chairman, if the hon member can give that specific information to me, I shall pass it on and specifically request that it be attended to I also want to say that at this stage I am not aware that the Goldstone Commission is not satisfied with the cassettes that were handed to them

†Mr J H W MENTZ Mr Speaker, further arising out of the hon the Minister's reply I wish to say that it is quite clear from his answer that that material no longer exists and that some of the material has been erased because of the re-use of the cassettes

†The MINISTER Mr Speaker, one simply cannot expect the SABC to keep the cassettes of everything they record forever

**Randburg City Council· Chairman of Management Committee**

*2 Mr P H DE LA REY asked the Minister of Local Government †

(1) Whether a certain person, particulars of whom have been furnished to the Minister's Department for the purpose of his reply, was recently elected chairman of the Management Committee of the Randburg City Council, if so, (a) when and (b) what is the name of this person,

(2) whether, at the time of his election, the person qualified for election as chairman of this Management Committee, if so, in terms of what statutory and/or other provisions, if not, why not? B811E





†The MINISTER OF LOCAL GOVERNMENT.

†Mr Speaker, in opening, allow me to congratulate you on the fact that you are occupying the Chair on 26 May 1993, 45 years after 26 May 1948 [Interjections ]

(1) (a) March 1993

(b) Councillor G C Cooney

(2) Yes—Chapter III of the Municipal Elections Ordinance, No 16 of 1970, Transvaal

**Traffic officers: remuneration**

*3 Adv C H PIENAAR asked the Minister of Education and Training and of National Housing (Minister responsible for the Commission for Administration)·†

Whether, in the 1991–92 and 1992–93 financial years, the Commission for Administration took steps to improve the remuneration packages of provincial traffic officers; if not, why not, if so, what steps? B812E

†The MINISTER FOR NATIONAL HEALTH AND WELFARE (for the Minister of Education and Training and of National Housing (Minister responsible for the Commission for Administration))

Yes *1991–92 financial year* In addition to the incorporation of the 10% non-pensionable allowance, which had been payable to all Public Service Act personnel since 1 April 1990, into basic pensionable salary and the granting of a differentiated salary adjustment of 9,6% at the lowest level and 6,6% at the highest level, the following steps were taken

— A non-pensionable occupational allowance of R1 200 per annum was instituted for the four lowest post levels of provincial traffic officers

— The gradings of the remaining two post levels were upgraded by one post level each

*1992–93 financial year* An average pensionable general salary adjustment of 9,2% was granted to all Public Service Act personnel

†Adv C H PIENAAR Mr Chairman, this question has arisen every year for the past three years now and I have also put it at provincial debates

Arising out of the hon the Minister's reply, I should like to ask why the remuneration package of provincial traffic officers, who make up the front line of law enforcement, especially on the roads, is still so far behind that municipal traffic officers generally get better remuneration packages than provincial traffic officers

Although these adjustments mentioned by the hon the Minister have been made, they are still so far behind that provincial traffic officers are some of the worst-paid law enforcers in this country I want to know why attention is not being given to this

If one asks the question on a provincial level, they refer one to the central level When one asks it on a central level, they refer the matter back and say that it has been attended to Why are these people's remuneration packages not brought onto the same level as, for example, the SA Police? [Interjections ]

†The MINISTER Mr Speaker, the hon member may table the question so that the relevant hon Minister can reply to it for him

**Slagboom: accident involving school cadets**

*4 Mr E W TRENT asked the Minister of Defence

(1) Whether, with reference to an accident which occurred at Slagboom on or about 18 March 1993 and in which a number of pupils were killed and injured, school cadets attending cadet camps have the same status as do members of the public undergoing national service, if not, (a) why not and (b) how does their status differ,

(2) whether the South African Defence Force has paid or intends paying compensation in respect of each pupil killed or injured in the above-mentioned accident, if not, why not, if so, (a) what amount and (b) how is this amount calculated? B836E

†The DEPUTY MINISTER OF DEFENCE

Mr Speaker, before I answer the question, on behalf of the Government and the SA Defence Force I should like to express our sincere sympathy to the parents and family and friends of the three boys who passed away in this tragic accident

Cont-p

The MINISTER Mr Speaker, once again I regret that I do not have those specific details with me Perhaps it would be advisable for the hon member or the hon member for Port Elizabeth Central to put another question on the Question Paper

Mr E W TRENT Mr Speaker, further arising out of the hon the Minister's reply, I would like him to give us an assurance that he will investigate the whole system of cadet camps, the authority pertaining to such camps and how these camps are conducted so that something like this does not recur in the future Can he give us the assurance that the Department will investigate this issue?

The MINISTER Mr Speaker, the matter is already the subject of an investigation

**Medihelp: teachers on early retirement**

*2 Mr R M BURROWS asked the Minister of Education and Culture

(1) Whether he or his Department have had or are engaged in discussions with Medihelp and/or any teachers' organizations regarding the funding of the State portion of contributions to Medihelp in respect of teachers on early retirement who have reached the age of 60 years, if not, why not, if so, what is the (a) nature and (b) purport of these discussions,

(2) whether such teachers were informed that the State portion in respect of contributions to Medihelp would cease after their reaching the age of 60 years, if so,

(3) whether this information was subsequently repudiated by Medihelp; if not, what is the position in this regard, if so,

(4) whether he intends taking any steps in this regard, if not, why not, if so, what steps? B842E

†The MINISTER OF EDUCATION AND CULTURE

(1) Yes,

(a) officials from the Department and the Department of National Education held discussions with Medihelp and the Commission for Administration The matter was also raised in talks I held with teachers' organizations I am still in discussion on the matter with the Chairman of the Commission for Administration,

(b) to establish what the State's future subsidization policy regarding Medihelp will be,

(2) I do not have knowledge of any such information having been given to teachers,

(3) falls away,

(4) as already stated, I am in discussion with the Commission for Administration which, as I have been told, will take matters relating to Medihelp further





***HOUSE OF REPRESENTATIVES***

QUESTIONS

†Indicates translated version

*For oral reply*

*General Affairs*

**Certain person arrested in Hankey**

*1 Rev A D GOOSEN asked the Minister of Law and Order·†

(1) Whether a certain person, whose name has been furnished to the South African Police for the purpose of the Minister's reply, was arrested in Hankey on or about 9 May 1993; if so, on what charge;

(2) whether this person has appeared in court, if not, why not, if so, when,

(3) whether the said person was released on bail, if not, why not; if so, what was the amount of the bail,

(4) whether he will make a statement on the matter? C108E

*The MINISTER OF LAW AND ORDER

(1) Yes Murder

(2) Yes 10 May 1993

(3) No The person was released on his own recognisances

(4) No

Mr M A HENDRICKSE Mr Chairman, arising out from the hon the Minister's reply, can he tell us why the local police or the investigating officer delayed the search for the victim of this gruesome murder after it was reported? I believe that some time elapsed before an investigation was launched into this disappearance

The MINISTER Mr Chairman, I do not believe I have that information available The hon member will appreciate the fact that it happened far away from Cape Town and that I was not present There was no suggestion in the question whatsoever that a delay took place

I was under the impression that the question was asked specifically to talk about whether bail should be granted or not I therefore apologise to the hon member for not having the answer to that question available If the hon member insists on a reply, however, the information can be made available

†Mr J C OOSTHUIZEN Mr Chairman, further arising out of the hon the Minister's reply, for what reasons was this person who is charged with murder released on his own recognisance?

†The MINISTER Mr Chairman, neither the Minister of Law and Order, nor the police, nor the Minister of Justice has any say whatsoever over whether a magistrate grants bail or not It is judged by the magistrate in every case and therefore it is not within my jurisdiction to react to it

The LEADER OF THE OFFICIAL OPPOSITION· Is that the normal procedure?

The MINISTER Yes The hon the Leader of the Official Opposition may believe it or not, but I was also a prosecutor in my younger days The test is really whether an accused will stand trial or not On numerous occasions, when I was still a prosecutor and was certain that somebody would stand trial, I did not apply for bail to be posted

Mr M A HENDRICKSE Mr Chairman, I do grant the hon the Minister that the final decision does rest with the court and the magistrate in question, but further arising out of his reply I would like to know whether the SA Police, and specifically the investigating officer, opposed any application for bail or opposed the fact that the murderer was to be released on his own recognisance?

The MINISTER Mr Chairman, that happens after evidence is led In other words, it is at the discretion of the magistrate It is not at the discretion of the SA Police

Mr M A HENDRICKSE Mr Chairman, further arising out of the hon the Minister's reply, we know that the final decision rests with the magistrate, but did the police and the prosecutor in the particular case lodge their opposition

cont→

to the granting of bail or to the fact that somebody must be released on his own recognisance?

The MINISTER Mr Chairman, I do not have that information available However, as I say, whatever they do, the final decision rests with the magistrate It is therefore really academic whether they did so or not [Interjections ]

†Mr J C OOSTHUIZEN· Mr Chairman, further arising from the hon the Minister's reply, will he conduct an inquiry into why the police did not want to accept a charge from these people in the first place?

†The MINISTER Mr Speaker, if that is so, I will most certainly have enquiries made I have already said to the hon member who asked about this earlier on, that if he experiences any problems in this regard and there are such allegations, I am quite prepared to have it investigated There will not only be a commission of enquiry, we will investigate it thoroughly

INTERPELLATION

The sign * indicates a translation The sign †, used subsequently in the same interpellation, indicates the original language

*Own Affairs*

**Purchase of piece of land at Kirkwood**

*1 Mr N M ISAACS asked the Minister of Housing

(1) Whether the former Department of Local Government, Housing and Agriculture in the Administration House of Representatives purchased a piece of land at Kirkwood for housing purposes, if so, what are the relevant details in respect of this purchase transaction,

(2) whether there has been any development on this land since the date of purchase, if not, why not, if so, what development?

C96E INT

The MINISTER OF HOUSING Mr Chairman, the Development Board, House of Representatives, acquired eight portions of land with a total extent of 134,0513 ha directly from five different owners during 1989 and 1990 for an amount of R649 600

Development will only take place once the planning which is at present undertaken has been finalised and funds can be made available

May I just add that this matter dates back to 1984 when, because of the dire housing need in Kirkwood at the time, they looked at the possibility of proclaiming Aquapark as a group area and relocating the people to that area

On 15 February 1989 the erstwhile Group Areas Board launched an investigation to identify the necessary land A Coloured group area was proclaimed on 3 November 1989, an area which included certain properties Hon members were supplied with the names of those properties After the proclamation of the group area, the Development Board, House of Representatives, was obliged to acquire the land from the disqualified people

*Mr N M ISAACS Mr Chairman, I want to state unequivocally today that it was a waste of money That money was spent on an area of which only 80 ha could be used for housing Nothing could be done with 49 ha, because it was mountainous terrain

Something else that was not clear to me, is that the hon member for Addo lodged an objection to the proclamation of the area When one goes through the documents one finds that when the Development Council purchased this land, they did not even submit the objections that had been recorded to the Minister concerned

This land was bought quite a few years ago and at the time the development of one plot would have cost R12 000 At present prices it would cost R23 000 to provide services in that rock-hard soil I assume that that land was purchased for low-cost housing Can anyone be so stupid as to think that one can construct a house today, the services for which alone cost R20 000, while the house costs R30 000 Then the other costs must still be added to this What people in that area can afford a house costing between R60 000 and R70 000?

I maintain that the hon the Minister knows that it is a fact that the purchase of that land was a disgraceful waste of money, and that it had to be resold





The background to this transaction was that this land was bought from farmers who were eking out a precarious existence They could do absolutely nothing with it Who came along and took these farmers out of their quagmire of poverty? The taxpayers' money was used for that purpose

I can go even further We could ask who the Minister concerned was at the time The Minister at the time did not even know that that land had been purchased He delegated all his powers to the Development Council Every time one asked that Minister what was happening, he said, "Go to my officials" As far as this land is concerned, it was all of R700 000 of the taxpayers' hard-earned money that was wasted No decent development for those people will ever come from this

I want to make a plea here today for no further money to be wasted in this way That land must be sold, because the farmers were unable to make a living there [Time expired ]

Mr M A HENDRICKSE Mr Chairman, I want to quote the following statement by the hon member for Addo who unfortunately cannot be here today He says

I have in my possession letters from the Regional Director House of Representatives, Port Elizabeth, and from the Department of Regional and Land Affairs, Port Elizabeth, that state very clearly that I opposed the purchase of this ground

What I did lobby for was the purchase of Aquapark from the Department of Water Affairs on which there were already houses standing and the workers of that department were moving on

This was opposed by the NP Town Council of Kirkwood as well as the NP-controlled Department of Community Development

They wanted to save this land for the future extension of the White area As we all know, with the NP policy White interests come before anybody or anything else.

The people who supported the purchase of this land were the following NP-controlled structures The Regional Director, Department of Public Works, Port Elizabeth, the Cape Provincial Administration; the Regional Director, Administration House of Assembly and Dr T Delport, the NP MP for the area

Dr Delport is today the hon the Minister of Local Government and is also known to some as the person who almost single-handedly caused the breakdown of Codesa 2, and therefore is responsible for the loss of life since then as well as the economic backslide He is also known as one of the advisers to the killers of Comrade Gomwe and others

We have here today again seen the Brownnosers of the NP trying to justify or blame the victims of apartheid for the immoral, evil and vicious effects of NP policies

This question originates from the hon member for Bishop Lavis, who has publicly been accused of threatening people that if they do not join the NP they will be evicted from their houses [Interjections ] Hon members can look at *South* of 1 May to 5 May 1993

This question was posed because the hon member for Belhar insinuated that certain financial benefits were involved [Interjections ] That accusation must be refuted and denied and treated with the contempt that it deserves [Time expired ]

*Mr S SIMMONS Mr Chairman, what is before this House today is irrefutable proof of the absolutely hopeless administration of the LPSA while they were in power [Interjections ] The hon member for Addo should be the last one to try and exonerate himself in this House, since he does not care a fig for the people of Kirkwood

What is very important, however, is the fact that he was the Chairman of the Ministers' Council He is still taking decisions for the LPSA [Interjections ] Has he ever risen in this House and objected to the purchase of the mountain? [Interjections ] No, he could not do so, because he was part of the decision that was taken

*Mr M A HENDRICKSE You remain stupid [Interjections ]

*Mr S SIMMONS According to my information R700 000 was paid for the mountain What worries one, however, is that R9,6 million is required to provide the services for the envisaged 800 plots on that land It amounts to R12 000 per plot Can the poor people of Kirkwood afford it? In the end they will have to pay

Cont

# *focus on* marches

South African marches continue to claim lives, as the latest figures show. The Tokoza shootings have prompted debate among political organisations and police on whether proper means are being used to stop deaths. *Sowetan* Investigations Editor **Mathatha Tsedu** reports:

Sowetan 26/5/93

(252)

DEMOCRACY, it has been said, is measured by the amount of freedom opponents allow each other

In the black community and many other places in the world, when people are angry with each other, the embittered one goes to the house of the alleged perpetrator to offload anger at his doorstep or gate

When a collective of people is angry, they do so collectively, and hence the marches.

But marches are a dangerous means of expressing one's view in this country, as the following statistics show

At least 115 people have died in marches, gatherings and funeral processions since the beginning of last year, according to figures compiled by the Human Rights Commission

Forty one of them were killed during the first five months of this year, while 73 were killed last year Seventy-one of the deaths, over 60 percent, resulted from police and soldiers opening fire on protesters and mourners

During the same period, 1 312 people were injured Six-hundred-and-seventy-six were injured last year while 636 suffered injuries this year

This chilling toll includes well-known incidents such as the Bisho massacre, the shooting of marchers in Vandebijlpark and at the Protea police station after the Chris Hani assassination and Tokoza this past weekend.

What to many is an outing in which you walk alongside others in a collective expression of disgust or appreciation has been turned into a nightmare for black marchers

And there is no doubt that nowadays an invitation to take part in a march brings security considerations as the major factor

Should it be, or are those who are responsible for this merely criminalising one of the tenets of democracy, namely the right to free association and expression?

### Role of police

What of the role of police, Should they not defend the right of lawful marchers against all possible dangers? If they had done so, would the killings in Tokoza on Saturday have happened?

Why are the police the major contributors to the death toll of marchers? How did it come that a white motorist drove into a crowd of black protestors and shot two dead before he was apprehended?

Where were the police? Too busy watching if the marchers were looting white houses? Would a black motorist have been able to move into that position if the marchers were white?

Are the police just too trigger happy when it comes to black marchers?

An SAP spokeswoman in Pretoria said the figures of people killed by security forces should be seen against the background of increasing attacks on security forces

**BISHO MARCH ... Protesters carry a casualty of the bloody ANC march on the Ciskei capital.**

"Each incident of killing involves a different set of circumstances and it is difficult to give a general answer to the problem

"Each death is the subject of a thorough investigation by the police The SAP has an obligation to maintain peace and enforce the law and we try to do so with the minimum of force," she said

The spokeswoman said she could not comment on police preparedness and handling for the Tokoza march and referred the questions to Witwatersrand spokesman Captain Wikus Weber, who has said all allegations would be investigated

Law and Order Minister Mr Hernus Kriel has called for a moratorium on mass action, saying marches either turned violent or became a source of violence

The ANC, which has borne the brunt of these attacks, has rejected Kriel's proposal, saying it will not drop mass action to accommodate the killers. Kriel, the ANC said, was criminalising victims of police killings and outlawing democracy.

Following the Bisho massacre on September 7 last year, in which 29 people were killed, the ANC found itself accused of using ordinary people as cannon fodder in its attempt to unseat Oupa Gqozo.

But the organisation argued that people in that region were denied political space to operate and organise. They were determined to secure that space and would not allow a despot like Gqozo to stand in the way Any other decision would be playing into the hands of the Gqozo's of this world, the ANC said

The Azanian People's Organisation said the right to march was an inalienable right of everyone but warned that liberation forces had to realise that security forces had their own agendas and would therefore not defend protesters

"What we are saying is that liberation forces have to ensure that they have adequate security for their marchers, without relying on the forces of oppression."

The Pan Africanist Congress said it supported mass action aimed at unseating the regime and not one "planned to speed up reform We accept that death is a part of any struggle and that our people are prepared to die But they should not be made to lay down their lives for marches that do not bring our freedom any nearer"

Spokesmen for the Inkatha Freedom Party were not available for comment Leaders were said to be busy on the East Rand, where violence emanating from the march shootings has now claimed over 35 lives

And so the big debate will continue to rage about whether to march or not to march And as the debate rages, committed democrats have to take their lives in their hands as they vote with their feet.

# news in brief

Sowetan

## Apartheid revoked

26/5/93

GRAND apartheid was dealt a blow yesterday when legislation was tabled in Parliament revoking the autonomy of six self-governing territories (252)

The Revocation and Assignment of Powers of Self-Governing Territories Bill will, when it becomes law, give President FW de Klerk the power to, with the consent or at the request of the administration of any self-governing territory, revoke the legislative powers and executive authority of these homelands

This clause effectively gives self-governing territories such as KwaZulu an option to remain autonomous.

"The main objective of the bill is to provide for the manner in which the autonomy of the self-governing territories can be revoked," the memorandum explains

# Three Bills open the way to reincorporate homelands

TIM COHEN

CAPE TOWN — Three Bills published yesterday will clear the way for reincorporation — with their consent — of the six self-governing states

The Revocation and Assignment of the Powers of Self-Governing Territories Bill empowers the President to issue a proclamation revoking the legislative powers and executive authority of self-governing territories

In order to do so, the President must have the consent of the territory's government or be acting at that government's request

The Bill empowers the President to retain powers and authority or to assign these powers to another person or body, the Bill's memorandum says

The Bill also seeks to enable the President to assign the administration of a law in force in a self-governing territory to another person or body.

The second Bill, the Joint Administration of Certain Matters Bill, empowers the President to proclaim that matters currently administered by a department in SA and separately in self-governing territories be administered in a single department

The Bill also empowers the President to amend or repeal laws in order to facilitate such joint administration.

The third Bill, the Regulation of Joint Executive Action Regarding Certain Land Bill, makes provision for joint administration of land which belonged to the SA Development Trust.

The Bill's object is to authorise the President to give effect to agreements between government and the governments of self-governing states.

Executive actions with respect to the land will be carried out jointly by the relevant government ministers and the ministers of the self-governing states in terms of agreements reached, the Bill's memorandum says.

# Gluckman's sense of justice led to clashes with authority

Star 21/5/93

(252)

**Dr Jonathan Gluckman's unfailing integrity forced him into politics, reports BRONWYN WILKINSON.**

JONATHAN Gluckman caused the Government considerable discomfort with his disclosures last year that police were killing people in their custody, but he refused to be bullied into making political statements

Last year, Gluckman told The Star it was the "incremental horror" of the damage inflicted on the bodies he had examined that prompted him to reveal the contents of his files

The custody-deaths row was not the first time Gluckman was catapulted into the headlines — he performed the post-mortem on Black Consciousness leader Steve Biko in 1977

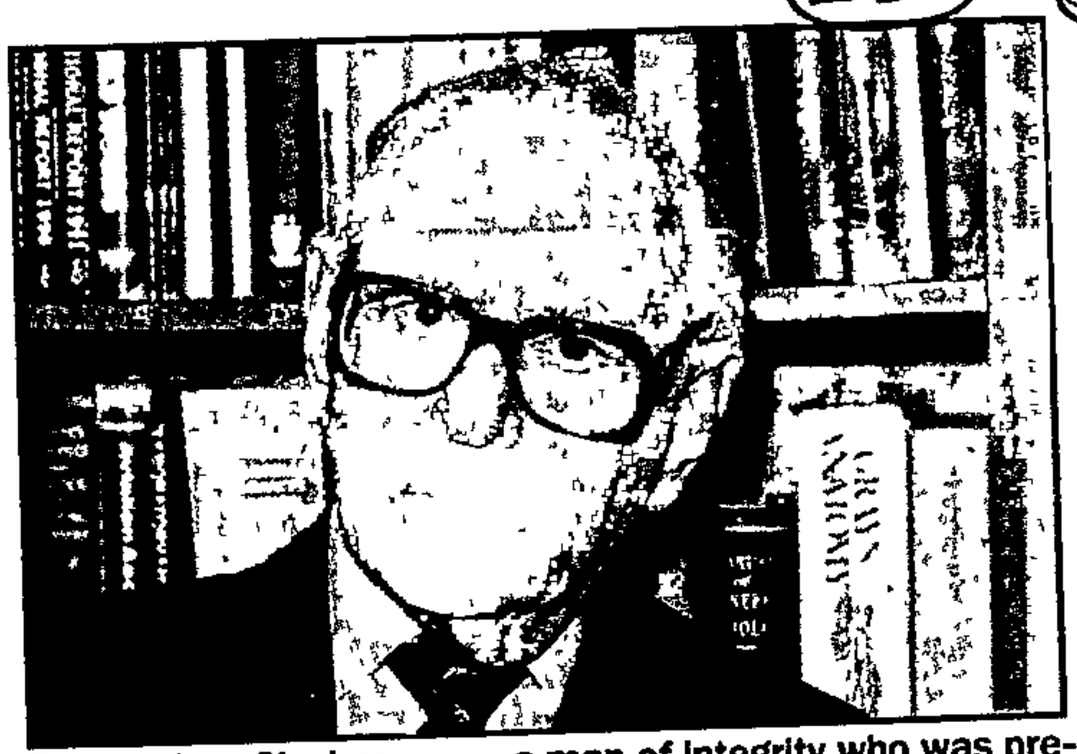
When he died, aged 78, on Tuesday, Gluckman was still consulting in forensic pathology and was on the board of Medical Rescue International — an emergency medical service for sub-Saharan Africa — which he helped to found

Lawyers for Human Rights described him as a "Doctor for Human Rights" and the Azanian People's Organisation said his death was a loss for the entire nation

Gluckman's closest colleagues — those at Medical Rescue International — said in a statement "His energy was boundless, even taking on the full might of the Government in his middle seventies, when most people are contentedly retired

"He was prepared to be pilloried by Cabinet Ministers and risked his credibility and reputation by standing by the truth as he knew it

"Not a moment of Jonathan Gluckman's life was wasted He was a living example of how much one man can achieve for the betterment of humanity There will not be another like him."



Dr Jonathan Gluckman . . . a man of integrity who was prepared to risk his reputation for justice.

Gluckman was born in Johannesburg in 1914, was schooled at Parktown Preparatory School and Houghton College, and studied medicine at the University of the Witwatersrand and St Bartholomew's Hospital in London

During World War 2 he served as a major in the South African Medical Corps in South Africa, the Middle East and Italy

It was during the war that he took up pathology, specialising later at the British Postgraduate Medical School

The awards he received during his career take up four pages of a packed curriculum vitae.

He founded the Transvaal Society of Pathology, was a past president of the Medical Association of South Africa and a long-standing member of the South African Medical and Dental Council, the Royal Society of Medicine and several other medical societies

He was a founder and senior partner in the largest general pathology laboratory in South Africa, but resigned in 1967 to confine himself to histopathology (tissue pathology), anatomical pathology and forensic pathology

In 1985 Gluckman resigned from practice to consult on his three specialities

He accepted forensic work from lawyers acting on behalf of relatives and ended up in the witness box at inquests on countless occasions.

Abrupt in manner and speech, Gluckman still radiated modesty, kindness and compassion

He confessed to a passion for opera, and the walls of his Braamfontein office were decorated with his own oil paintings.

Gluckman married Lois Stowe McLean in 1941 They had two sons, Michael and Paul, and a daughter, Mary

One of the saddest facts of Jonathan Gluckman's death is that his memoirs — which he promised to write after his retirement — will never be written □

# 3 let off after MK slaying

Star 27/5/92

By Abdul Milazi

A Johannesburg magistrate yesterday found three policemen not criminally responsible for the killing of an Umkhonto we Sizwe cadre and his girlfriend during a police raid in Soweto a year ago.

Itumeleng Padi and Nokuzola Ncalo were shot dead during a predawn raid by Captain Herman Havenga, Warrant-Officer Marthinus Johannes Schoeman and Warrant-Officer Daniel Knoetze on May 19 1991.

Magistrate Willem Botha said the three policemen could not be held "criminally responsible" for the death of the couple because they were acting in "an emergency situation".

## Burst in

Knoetze and Havenga claimed that they shot the couple because they believed Padi was about to attack them with a hand grenade

However, Schoeman said that he did not see a hand grenade.

Havenga, who was commanding the unit during the raid, earlier described to Botha how he and his men had burst into a room in Phiri, Soweto, where they believed 21-year-old Padi, who had escaped from the Johannesburg prison the previous November, was hiding

He knocked on the door and identified himself. The door was unlocked and on entering, he found Padi sitting on a bed pulling at the pin of a hand grenade.

He shouted "hand grenade" and fired from his R-5 assault rifle, Schoeman entered and also fired his R-1 rifle and Knoetze then entered and fired at Ncalo and Padi

*HOUSE OF ASSEMBLY*

QUESTIONS

†Indicates translated version

*For written reply*

*General Affairs*

**Specialist courts: jurisdiction**

46 Mr D J DALLING asked the Minister of Justice·

(a) What specialist courts are operating in South Africa at present, (b) at what level does each such court operate and (c) what is the jurisdiction of each? B87E

The MINISTER OF JUSTICE

The question is susceptible to various interpretations, and the question cannot be replied to in the form in which it is asked In order to be of assistance to the hon member, details concerning "special courts" instituted in terms of acts administered by the Department of Justice, as well as some of the institutions commonly regarded as "special courts", to serve as examples, are mentioned hereunder

(i) (a) Labour Appeal Court. (Labour Relations Act, 1956 (Act 28 of 1956))

(b) Constitution The Court consists of a judge (chairman of the Court), and two assessors appointed by the chairman

(c) Powers (sec 17B) To decide *inter alia* appeals from the Industrial Court

(ii) (a) Industrial Court (Labour Relations Act, 1956 (Act 28 of 1956))

(b) Constitution The Court consists of a president, deputy president and other members appointed by the Minister of Manpower

(c) Powers (sec 17 (11)) To decide matters arising in terms of the Labour Relations Act, 1956

(iii) (a) Court for Income Tax Appeals: (Income Tax Act, 1962 (Act 58 of 1962))

(b) Constitution The Court consists of a judge or acting judge, an accountant and normally a representative of the commercial community

(c) Powers (sec 83) To hear and determine appeals against decisions of the Commissioner for Inland Revenue

(iv) (a) Water Court: (Water Act, 1956 (Act 54 of 1956)).

(b) Constitution· A judge presides and may appoint two assessors

(c) Powers (sec 34) To hear and determine certain disputes relating to the use or appropriation of water

(v) (a) Special Superior Court (Criminal Procedure Act, 1977 (Act 51 of 1977))

(b) Constitution· The Court consists of three judges.

(c) Powers (sec 148) To adjudicate charges which relate to the security of the State or to the maintenance of the public order

(vi) (a) Maintenance Court (Maintenance Act, 1963 (Act 23 of 1963))

(b) Constitution Every Magistrate's Court is also a Maintenance Court

(c) Powers (sec 5) To hold enquiries with regard to maintenance matters

(vii) (a) Children's Court. (Child Care Act, 1983 (Act 74 of 1983))

(b) Constitution A commissioner or assistant commissioner of child welfare (magistrate) presides

(c) Powers (sec 6) To adjudicate matters regarding the protection and welfare of children

(viii) (a) Small Claims Court: (Small Claims Court Act, 1984 (Act 61 of 1984))

(b) Constitution A Commissioner for Small Claims presides





(c) Powers (sec 15) To adjudicate small civil claims up to the amount of R2 000.

(ix) (a) Short Process Court (Short Process Courts and Mediation in Certain Civil Cases Act, 1991 (Act 103 of 1991))

(b) Constitution An Adjudicator for Short Process presides

(c) Powers (sec 9)· To adjudicate certain civil cases

(x) (a) Civil Courts of Black Chiefs, Headmen and Chiefs' Deputies (Black Administration Act, 1927 (Act 38 of 1927))

(b) Constitution A chief, headman or chief's deputy presides

(c) Powers (sec 12) To hear and determine civil claims arising from Black law and custom

(xi) (a) Black Divorce Courts (Black Administration Act, 1927, Amendment Act, 1929 (Act 9 of 1929)) The Department of Justice has recently investigated the desirability of the continued existence of these courts, as a result of which certain changes regarding the forums for the adjudication of divorce matters in general are deemed to be appropriate The Magistrates' Courts Amendment Bill, 1993, which is currently being considered by the Joint Committee on Justice, consequentially provides, amongst others for the abolishment of these courts

(b) Constitution: A president, who may appoint two assessors to assist him, presides

(c) Powers (sec 10) To hear and determine suits of nullity, divorce and separation in respect of marriages between Blacks

**State employees: charges/trials/convictions for offences**

103 Mr D H M GIBSON asked the Minister of Justice

Whether he will furnish statistics on the number of (a) former and (b) current State employees who, during the period 1 January 1990 up to the latest specified date for which information is available, were (i) charged with, (ii) tried for and (iii) convicted of offences involving acts of dishonesty committed whilst in the employ of the State, if not, why not, if so, what are the relevant statistics? B265E

The MINISTER OF JUSTICE

The required information is not readily available It can also not be obtained by scrutinizing all the court records in the Republic as it is in most cases not evident from these records whether or not an accused is a current or former State employee or whether the offence was committed whilst in the employ of the State

**Infanticide: prosecutions/convictions**

119 Mr L FUCHS asked the Minister of Justice

How many (a) men and (b) women were (i) prosecuted for and (ii) convicted of infanticide during the latest specified period of 12 months for which information is available? B288E

The MINISTER OF JUSTICE

The following statistics were obtained from the Central Statistical Services

| | *Men* | *Women* | *Total* |
|---|---|---|---|
| (i) Persons prosecuted for infanticide | 61 | 19 | 80 |
| (ii) Persons convicted of infanticide | 31 | 13 | 44 |

**Compensatory orders made by magistrates/judges**

167 Mr A J LEON asked the Minister of Justice

(a) How many compensatory orders were made by (i) magistrates and (ii) judges of the Supreme Court in terms of sections 297 and 300 of the Criminal Procedure Act, 1977 (Act No 51 of 1977), in favour of victims of crime during the latest specified period of 12

months for which information is available and (b) what was the total pecuniary value of compensation so awarded during this period? B381E

The MINISTER OF JUSTICE

Statistics of the kind requested by the hon member are not kept by the Department and accordingly the required information is not readily available To obtain the information all court records in the country would have to be scrutinized which would be so time-consuming as to be not economically feasible

**Justices of the peace appointed in Randburg/Johannesburg**

213 Mr D J DALLING asked the Minister of Justice·

(a) How many persons were appointed as justices of the peace in the magisterial districts of (i) Randburg and (ii) Johannesburg in 1991 and 1992, respectively, and (b) what are their names? B130E

The MINISTER OF JUSTICE·

(a) (i) 1991—1; 1992—4

(ii) 1991—5, 1992—19

(b) (i) *Randburg*

1991
Mr G R Dowling

1992
Mr A K Parker
Mr A G A du Toit
Mr G L Higgs
Mr B S Mzamo

(ii) *Johannesburg*

1991
Mr B P Geldenhuys
Mr W C J Johnson
Mr J C de Villiers
Mr S Stoltz
Mr H J J Orkin

1992
Mr B G S de Wet
Mr S M J van der Westhuizen
Mr N J Smit
Mr J A Vermeulen
Mr O F Mahomed
Mr A S Mohamed
Mr N M H Tisaker
Mr J C Lamprecht
Mr B A Sloman
Mr T Ramakhula
Mr L M Said
Mr N F C van Huyssteen
Mr C J Kaynie
Mr G A Robertson
Mr H H Masters
Mr L Naude
Mr S G Bloomberg (OMSS)
Mr H F Mahomed
Mr A M van der Westhuizen

**Persons arrested/granted bail**

226 Mr A J LEON asked the Minister of Justice

(a) How many persons were (i) arrested and (ii) granted bail in 1992 and (b) how many persons so granted bail were unable to pay the amount set in respect of bail? B506E

The MINISTER OF JUSTICE

Statistics of the kind requested by the hon member are not kept by the Department and accordingly the required information is not readily available To obtain the information all court records in the country would have to be scrutinized which would be so time-consuming as to be not economically feasible

**SAP members: criminal conduct**

229 Mr H J BESTER asked the Minister of Justice

(1) Whether any dockets relating to complaints alleging criminal conduct on the part of members of the South African Police were received by the attorneys-general of the four provinces in 1987, 1988, 1989, 1990, 1991 and 1992, respectively, if so, how many were received by each attorney-general in each of these years,

(2) whether the attorneys-general concerned returned any of these dockets to the investigating officers for further investigation, if so, how many in each case,

(3) whether the Attorney-General of the Transvaal refused to prosecute any members of the Police in respect of any dockets referred to in paragraph (2) of this question, if so, in respect of how many such dockets? B521E





The MINISTER OF JUSTICE

(1) All the required information is not readily available In an effort to be of assistance to the hon member, the following information regarding dockets relating to complaints alleging criminal conduct on the part of members of the South African Police has been obtained from the attorneys-general and the South African Police·

*Total number of dockets received by the attorneys-general country-wide*

| | |
|---|---|
| 1987 | Information is not readily available |
| 1988 | Information is not readily available |
| 1989 | 11 556 |
| 1990 | 15 124 |
| 1991 | 17 637 |
| 1992 | 20 163 |

*Total number of cases country-wide where prosecutions were refused or verdicts of not guilty were reached*

| | |
|---|---|
| 1987 | Information is not readily available |
| 1988 | Information is not readily available |
| 1989 | 8 979 |
| 1990 | 13 070 |
| 1991 | 15 531 |
| 1992 | 19 101 |

*Total number of cases country-wide where a verdict of guilty was reached*

| | | |
|---|---|---|
| 1987 | Information is not readily available | |
| 1988 | Information is not readily available | |
| 1989 | 2 577 | (22%) |
| 1990 | 2 054 | (13,6%) |
| 1991 | 2 106 | (11,9%) |
| 1992 | 1 062 | (5,2%) |

(2) and (3) The required information is not readily available as statistics are not kept in this category To obtain the information requested all the dockets relating to complaints alleging criminal conduct on the part of members of the South African Police during the six past years would have to be scrutinized This will be very time consuming and accordingly not economically feasible

**Criminal case involving security firm/managing director**

288 Mr M J ELLIS asked the Minister of Justice

(1) Whether, with reference to the reply by the Minister of Law and Order to Question No 106 on 18 March 1992, a criminal case involving a certain security firm and/or the managing director of this firm, whose names have been furnished to the Minister's Department for the purpose of his reply, has been heard, if not, why not, if so, (a) when, (b) what was the outcome of the case and (c) what is the name of the (i) firm and (ii) managing director in question;

(2) whether there are any other cases pending against the said managing director, if so, what are the relevant details,

(3) whether he will make a statement on the matter? B671E

The MINISTER OF JUSTICE

(1) Yes

(a) The trial started on 27 February 1992 and lasted until 16 July 1992

(b), (c) (i) and (ii) The security firm "Combat Force, Natal (Pty) Ltd" as accused No 1 and Mr Montague Kennith Norman Reeves, the managing director of the said firm as accused No 2, were convicted on 16 July 1992 on 34 counts of contraventing section 2 of the Arms and Ammunitions Act, 1969 (Act 75 of 1969) (possession of arms without a licence) and 1 count of contravening section 36 of the said Act (possession of ammunition without being in lawful possession of a weapon capable of firing that ammunition) The firm was sentenced to a fine of R10,00 on each count—in total R350,00 Mr Reeves was sentenced to a fine of R500,00 on each count, in total R17 500,00, or 35 months' imprisonment The firearms and ammunition were declared forfeited to the State

(2) As far as can be ascertained at this stage no criminal court cases are pending against Mr Reeves

(3) A statement is not necessary

*Provincial Administration of the Orange Free State*

(a) 80 and 2

(b) Black—40, White—38, Coloured—2

*Other Provincial Administrations*

The Provincial Administration of Transvaal, Natal and the Cape of Good Hope do not keep statistics of causes of death.

**Lung cancer: deaths**

314 Mr M J ELLIS asked the Minister for National Health and Welfare

How many persons (a) in total and (b) in each race group died of lung cancer in each province in 1992? B706E

The MINISTER FOR NATIONAL HEALTH AND WELFARE

*Provincial Administration of the Orange Free State*

(a) 80 and

(b) Blacks 40 Whites 38 Coloureds 2

*Other Provincial Administrations*

The Provincial Administration of the Transvaal, Natal and the Cape of Good Hope do not maintain statistics on causes of deaths

***Per capita* allocation of health funds**

316 Mr M J ELLIS asked the Minister for National Health and Welfare:

(1) Whether her Department has made any calculations regarding the *per capita* allocation of health funds for 1991–92 in the four provinces of the Republic; if so, (a) which (i) census year's statistics and (ii) financial year's expenditure were used as the basis for these calculations, (b) what allowance was made for rapid urbanization, (c) how was the expenditure per province calculated and (d) what factors were taken into account in reallocating funds between provinces,

(2) whether the independent Black states (TBVC states) were included for the purpose of these calculations, if so, as part of which provinces, if not, what allowance was made for cross-border flows;

(3) whether the (a) self-governing territories and (b) various departments of health in the (i) Republic, (ii) self-governing territories and (iii) TBVC states were included for the purpose of these calculations; if not, why not; if so, in what way,

(4) whether provision was made in these calculations for (a) health facility planning, (b) construction expenditure, (c) expenditure on equipment and (d) extraordinary expenditure, if not, why not, if so, (i) what items of extraordinary expenditure were provided for and (ii) how did their inclusion affect the *per capita* allocations;

(5) whether the figures derived from these calculations are updated annually, if not, why not, if so, what are the most recent estimates? B708E

The MINISTER FOR NATIONAL HEALTH AND WELFARE:

(1) Yes,

(a) (i) 1985, as adjusted and

(ii) 1991/92 budget allocations,

(b) none,

(c) the total budget allocations to the town affairs administrations, provincial administrations and the self-governing territories within each of the geographic regions of Transvaal, Cape Province, Natal and the Orange Free State respectively, are divided by the total populations in each of the mentioned geographic regions

The budget allocation of the Department of National Health and Population Development is not included in the allocations mentioned above because the Department—

— has a national overall responsibility in respect of health services which can only with great difficulty be divided into regions, and

— has limited responsibility for the delivery of health services and





(d) the Department divides the national health budget on the basis of a financing formula which has been approved by the Cabinet The relative need for health services in the different geographic regions is the principle on which the formula is founed The need for health services is determined by the size of the population in a specific geographic region, as well as the health status of the population The latter takes mortality rates, loss of potential years of life and utilisation rates of health care facilities into consideration,

(2) no, accurate figures are not available;

(3) (a) yes, as stated in paragraph 1 (c) and

(b) (i) yes, as stated in paragraph 1 (c),

(ii) yes, as stated in paragraph 1 (c) and

(iii) no,

the TBVC States are excluded because of the fact that the health services of these states are not funded from the national health budget The Department of National Health and Population Development carries no responsibility for allocation of the budget for health services in these states

Regarding the health departments which are included, refer to paragraph (1) (c),

(4) (a), (b), (c) and (d) yes,

(i) the total allocations to each of the health authorities are used in the calculations Specific items are not referred to and

(ii) because specific items are not referred to in the calculations, the per capita effect of the allocations cannot be determined,

(5) yes,

1993/94 (provisional estimates)

| | Rand *per capita* |
|---|---|
| Cape Province | 401 |
| Orange Free State | 293 |
| Transvaal | 266 |
| Natal | 235 |

In an effort to establish the *per capita* allocation in the four geographical regions on a more comparable basis, steps have been taken to improve the backlog in the Natal region The results are as follows:

Percentage disparity in the *per capita* allocation between the Cape Province (highest) and the Natal region (lowest)

| | |
|---|---|
| 1991/92 | 85,9% |
| 1992/93 | 76,6% |
| 1993/94 | 70,6% (provisional figure) |

**Political violence in Natal Midlands: inquests**

324 Mr W U NEL asked the Minister of Justice

(1) How many inquests pertaining to death resulting from political violence were conducted in each magisterial district in the Natal Midlands (a) in 1992 and (b) during the period 1 January 1993 up to the latest specified date for which information is available,

(2) in how many of these inquests (a) was death attributed to persons unknown and (b) were findings referred to the Attorney-General for his decision,

(3) in how many cases (a) did the Attorney-General decline to prosecute and (b) were prosecutions instituted? B748E

The MINISTER OF JUSTICE:

The required information is not readily available In an effort to be of assistance to the hon member, a few magistrates of districts (Pietermaritzburg, Glencoe, Howick and Estcourt) in the Natal Midlands were requested to furnish information regarding inquests pertaining to deaths flowing from violence The following information for the period 1 January 1992 to 31 December 1992 is available

| | | |
|---|---|---|
| (1) | Pietermaritzburg | 745 |
| | Glencoe | 39 |
| | Howick | 53 |
| | Estcourt | 74 |
| (2) (a) | Pietermaritzburg | 459 |
| | Glencoe | 37 |

cont→

| | | |
|---|---|---|
| | Howick | 40 |
| | Estcourt | 53 |
| (b) | Pietermaritzburg | 745 |
| | Glencoe | 39 |
| | Howick | 53 |
| | Estcourt | 74 |
| (3) (a) | Pietermaritzburg | 734 |
| | Glencoe | 39 |
| | Howick | 53 |
| | Estcourt | 74 |
| (b) | Pietermaritzburg | 11 |
| | Glencoe | 0 |
| | Howick | 0 |
| | Estcourt | 0 |

**Reserve Bank/Corporation for Public Deposits: profits**

353 Dr W J BOTHA asked the Minister of Finance:†

(1) Whether the Reserve Bank showed a profit (a) during the period 1 January 1921 up to and including 31 December 1988 and (b) in 1989, 1990, 1991 and 1992, respectively; if so,

(2) whether any portion of this profit accrued to the State during the periods mentioned in paragraph (1) (a) and (b), if not, why not, if so, what was the amount, in each case,

(3) whether the Corporation for Public Deposits has shown a profit since 1 January 1984, if not, why not, if so, what is the relevant figure in respect of each calendar year since that date? B828E

The MINISTER OF FINANCE

(1) (a) Yes

(b) Yes

(2) The total profits after a dividend of not more than 10 per cent and a transfer to the statutory reserve fund of 10 per cent of the remaining profit, is paid to the Government annually in terms of the South African Reserve Bank Act, No 90 of 1989

The following amounts have been paid to the State

| *Financial year ended 31 March* | *R(millions)* |
|---|---|
| 1921 – 1988 | 405,1 |
| 1989 | 48,7 |
| 1990 | 147,1 |
| 1991 | 70,9 |
| 1992 | 139,4 |

(3) The Corporation for Public Deposits has realised the following profits since its inception in 1984

| *Financial year ended 31 March* | *R(millions)* |
|---|---|
| 1985 | 10,4 |
| 1986 | 16,7 |
| 1987 | 16,7 |
| 1988 | 15,7 |
| 1989 | 19,0 |
| 1990 | 35,6 |
| 1991 | 31,7 |
| 1992 | 27,1 |





***HOUSE OF DELEGATES***

QUESTIONS

Indicates translated version

*or written reply·*

*General Affairs*

**Illegal abortions: persons charged**

2 Mr M RAJAB asked the Minister of Justice:

(a) How many persons were charged with illegally performing abortions during the latest specified period of three years for which figures are available and (b) how many of the persons so charged were convicted on this charge? D233E

The MINISTER OF JUSTICE

The following statistics were obtained from the Central Statistical Services

| | July 1988–June 1989 | July 1989–June 1990 | July 1990—June 1991 |
|---|---|---|---|
| (a) Number of persons prosecuted | 33 | 44 | 33 |
| (b) Number of persons convicted | 26 | 36 | 20 |

*Own Affairs*

**Financial assistance to institutions**

1 Mr A RAJBANSI asked the Minister of Welfare

Whether any financial assistance was given by his Department to certain institutions, the names of which have been furnished to the Minister's Department for the purpose of his reply, in the 1991–92 financial year, if not, why not; if so, what was the (a) nature and (b) extent of the assistance given to each of these institutions? D282E

The MINISTER OF WELFARE

Yes

(a) Granting of subsidies

(b)

(i) Aryan Benevolent Home Council—Chatsworth

| | |
|---|---|
| Children's Home | R1 166 021,16 |
| Home for the Aged | R 504 015,48 |
| Home for the Handicapped | R2 777 829,24 |
| Service Centre for Aged | R 28 199,98 |

(ii) Cheshire Home—Chatsworth

| | |
|---|---|
| Adult Home | R 101 576,24 |
| Children's Home | R 76 433,26 |

(iii) Chatsworth Child and Family Welfare Society R 563 773,15

# Mine safety inquiry gets nod

Star 28/5/93

CAPE TOWN — The Cabinet has approved of a commission of inquiry to look into improving mine safety. (252)

This was announced in Parliament today by George Bartlett, Minister of Mineral and Energy Affairs, in his budget debate.

Bartlett said the number of fatalities in the industry had fallen from 604 in 1991 to 552 in 1992 while injuries dropped from 9 103 to 8 801.

The commission would study existing regulations on safety and health in the mining industry, including compensation paid for injury and illness. — Political Staff.

**NEWS** Union invites support for strikers

# Workers appear on charges of trespassing

Sowetan 28/5/93

■ **Appearance follow demonstrations by Checkers-Shoprite members of Saccawu in Durban this week:**

TWENTY-THREE striking Checkers-Shoprite workers appeared in the Durban Magistrate's Court yesterday on charges of trespassing

Mr Ernest Zulu and 22 fellow workers were arrested this week on Checkers' premises in Durban after picketing and demonstrating.

The workers have been taking part in a country-wide strike by about 10 000 members of the South African Commercial, Catering and Allied Workers Union which began this week.

They appeared before Mr K McIntosh and were released on warning until June 10 for the senior public prosecutor to consult with Saccawu's legal representatives

A legal officer of Saccawu, Mr Ronny Pather, said the strike was about the withdrawal of the recognition agreement between Saacawu and Checkers-Shoprite

Meanwhile, the strike, which enters its 20th day today, continued yesterday after Saccawu and the management of Checkers-Shoprite failed to reach agreement on the company's recognition of the union

In a statement issued yesterday, Saccawu said industrial action would be intensified after attempts to resolve the dispute through mediation had failed

The union also claimed "arrests and harassment of picketers by management and the police continues at many stores"

Saccawu said it was waiting for Checkers-Shoprite to reconsider its position regarding the reinstatement of the recognition agreement

The agreement was cancelled in 1990 when Pepkor, which is the holding company of Checkers-Shoprite stores, took control of the stores

Management wanted Saccawu to negotiate a new agreement because of the new developments Saccawu was not opposing the move but declared a dispute with management when it cancelled the existing recognition agreement.

Mr Jeremy Daphne, Saccawu's spokesman, said the union tried everything it could to resolve the problem but management ignored "our pleas"

Daphne said Saccawu then called on political organisations and other trade unions for solidarity support

Sowetan 28/5/93

# The terror of death row

(252)

## ■ INHUMAN TORTURE *Capital punishment fight draws unlikely bedmates:*

**By Ruth Bhengu**

DAISY Modise (34) does not talk about her feelings easily In fact, it is near impossible to get her to express emotion about anything

Even when she speaks about the years she spent on death row awaiting a date with the hangman, she does not betray any trace of emotion

"I had resigned myself to death," is all she can say

One would have expected a woman who has children to have kicked and screamed and clung to life with all her might

But Modise, who has cheated the executioner and lived to tell the story, simply "accepted reality"

### Set alight

It is difficult to believe her As a matter of fact it is hard to believe that this retiring woman, who was born in rural Hammanskraal, deliberately doused another woman with petrol and set her alight

The victim died and Modise and two accomplices, Johannes Chauke and Thomas Makhubela, were sentenced to death in Bophuthatswana Modise spent two years on death row at the infamous Rooigrond prison

According to Modise, who was sent to the gallows in 1986, her problems started when her clothes were stolen by certain women in her neighbourhood in the township of Soshanguve in Pretoria

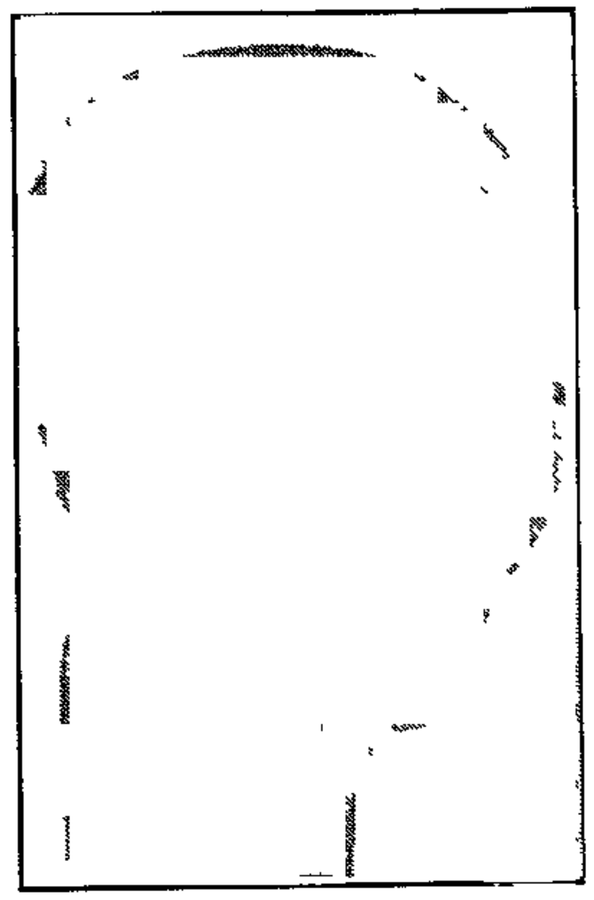
"I found out that my clothes had been stolen by some women, so I reported the matter to the comrades," said Modise

"The comrades searched for the women and found one of them

### Lost control

"They brought her to me When I demanded my clothes she was cheeky, so I got angry and lost control I doused her with petrol and set her alight.

"Later, when I heard she had died, I [illegible] ns"



**Daisy Modise ... I doused her with petrol and set her alight.**

The South African Council of Churches in Pretoria arranged local assistance for Modise and she appealed against the sentence In 1987 her sentence was commuted to 12 years imprisonment but she was released on parole on May 3 this year Only after she was released from jail did Modise find out that her mother had died

"My family would not tell me because they thought I had enough problems already They thought I would lose hope"

Modise said she was so disorientated when she came out of prison that she could not recognise the younger of her two daughters aged 11 and 14

"I did not know my own daughter and I have been nervous since I came out of prison When they told me I was free I did not believe it.

"I refused to leave my cell But I think the counselling that the SACC is arranging for me will help," she said

Modise says she wants to find a job and bring up her children

She has joined the campaign being waged by various human rights organisations against capital punishment The campaign recently caused controversy, especially in the light of the imminent execution of two ritual killers in Venda

Frans Netshirombeni and Wilson Nelukalo were sentenced to death in June 1990 for the murder of a child in June 1988

### Penalty should be abolished

"I think the death penalty should be abolished because sometimes people commit a crime for the first time in their lives and that should be taken into account "

Also, it is not everybody who plans a crime Sometimes one's emotions take over," she said

The SAAC's projects coordinator in the Justice and Human Rights Department, Mr Sandy Lebese, said member churches would intensify the campaign against the death sentence and put pressure on State president FW de Klerk not to lift the moratorium on capital punishment

**'Ritual killing is not acceptable but capital punishment is not a civilised human form of punishment'**

He said the decision was taken at a recent conference of the SACC

According to Lebese there are 283 people on death row countrywide and 10 in Mafikeng, Bophuthatswana

He said there were no political prisoners on death row but those known as common-law prisoners

"We picketed in front of the Bophuthatswana Embassy early this year and we are going to have more demonstrations," said Lebese

"The parents of those on death row have become militant and they have joined the campaign "

Asked if people like the Venda ritual killers and Wit Wolf Barend Strydom, who opened fire during the lunch-time in Pretoria's city centre on unsuspecting blacks killing eight and maiming several, should not be executed, Lebese said the churches did not condone these crimes but were still against the death sentence

The Human Rights Commission has issued a statement reiterating its long-standing call for the total abolition of the death penalty

"The most fundamental human right of all is the right to life

"The HRC fails to see how the deliberate taking of a life, or in this case two lives (Venda ritual killers), can compensate for the loss of another, or in any way set the matter right or prevent the recurrence of the original act

"The HRC is of the view that in executing a person, the possibility, however remote, of any subsequent repentance, conversion or rehabilitation is irrevocably ruled out," it said

Spokesman for Lawyers For Human Rights Mr Jodie Kollapen said his organisation wanted to clarify the fact that although it was calling for the abolition of the death penalty, it was not suggesting that the Venda ritual killers be freed

"We are calling for the abolition of capital punishment and not the release of the two killers

"Those are two separate issues

"We share the outrage of the people of Venda but we are saying those who are responsible should not be punished in this manner

"Ritual killing is not acceptable but we are saying that capital punishment is not a civilised human form of punishment" he said

Kollapen said he wanted to dispel the impression caused by the media that his organisation was calling for the release of those on death row

To pa

**NEWS** Azapo lauds dead pathologist ● Weeding out the nation's smokers

# Tributes pour in for Jonathan Gluckman

Sowetan 28/5/93

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■ **Fearless doctor revealed details of police brutality to a shocked SA:**

**By Ruth Bhengu**

THE death of pathologist Dr Jonathan Gluckman on Tuesday night in Johannesburg should have a different effect on different people

Those in the police force must be sighing with relief, while the dispossessed, whose hopes were pinned on Gluckman and courageous medical professionals like him, are distressed, to say the least

The 75-year-old Gluckman, who died after a back operation, commanded great respect in the black community

Tributes from political and professional organisations have been pouring in for the pathologist who earned himself the label "controversial"

A fellow doctor and admirer, Dr Gomolemo Mokae, who is also publicity secretary for the Azanian People's Organisation, referred to Gluckman as "a man of very high principles"

"He was a credit not only to the medical profession but to the South African nation in general Just recently he gave the world an insight into the torture going on in South African prisons

"It is ironic that up to his death the SAP had not as yet provided satisfactory answers to questions he raised," Mokae said

Gluckman caused a furore last July when he revealed that police had murdered about 90 percent of the 200 people whose bodies he had examined after their deaths in custody

He said· "The police are out of control and are murdering prisoners in custody."

He also claimed to have evidence of "police handling people in a vicious manner" But the police denied it

Minister of Law and Order Mr Hernus Kriel, after investigating the police, said only 29 percent of 200 deaths had occurred while the prisoners were in custody

The SAP report on the investigations on its own people said of 118 people on its list 14, were still alive, seven killed in the TBVC states and Lesotho, 29 died "not in police detention or due to police action", 26 died "during police action" and in eight the SAP "could not legally be accountable".

The police report showed that 34 people had died while in detention, six were suicides, while in 14 cases police were not accountable Eight were under investigation and in six police were prosecuted for murder, six died while in the care of the Department of Correctional Services and two died "as a result of SADF action"

In three cases, the SAP were prosecuted for murder and culpable homicide

Gluckman's response to the police claim that some of the people were still alive was that he was "stupefied" But so was the entire country, which had expected the Government to set up an independent commission of inquiry.

**Jonathan Gluckman ... died after a back operation.**

Instead, police treated Gluckman as a thorn in the flesh and called him a liar

Spokesman for the Law and Order Ministry Captain Craig Kotze said: "Based on the information at our disposal, including information given to us by Dr Gluckman, the original allegations that police were out of control and were murdering prisoners in custody, left right and centre, cannot be substantiated "

Whether the police have managed to convince themselves that they are innocent, the reality of the situation is that people are still dying in police custody

Reports show that up to 119 people have died this year only Is there anyone out there willing to fill Jonathan Gluckman's shoes?

# 1966: 'The gallows dominated our lives, the singing, the screams, the sawdust underfoot to hide the blood and mess'

W/Mail 28/5 - 3/6/93.

*By* **HUGH LEWIN,** *who spent eight months in the old Pretoria Central Prison as part of a seven-year jail sentence. His book Bandiet, an account of his prison experiences, was banned for many years.*

THERE is an obscene irony to the threatened reintroduction of hanging in South Africa. Just as the authorities are ostensibly negotiating a transition away from apartheid, they threaten to resurrect one of the ultimate symbols of the apartheid system: the gallows in Pretoria.

Leaving aside the arguments we're likely to hear in any debate about capital punishment, there are two points I offer as someone who once lived in the hanging jail in Pretoria and who has returned after 21 years to this post-February 1990 home which is, I'm told, edging towards a post-apartheid sunrise

Firstly, no debate can ignore the realities of the official death process, how it is administered and the effect it has on those who administer it.

Nor can we ignore the peculiar relationship between the South African prison system, with the rope dangling at its core, and the society outside the walls.

I spent eight months in 1966 in the old Pretoria Central Prison, as part of a seven-year sentence for sabotage, imposed in December 1964.

That was before they hid the gallows in a new "Beverley Hills" behind Central.

The gallows dominated our lives, from the moment we walked into the huge entrance hall with its sign saying "*Stilte*/Silence" — where there was never silence, always the reverberating sound of singing from B2, death row.

Always the tally on the board in the hall with up to 100 awaiting death, most of them black. Always the singing. Always the twice-weekly waiting in the yard on the way to the workshops while they knocked in the coffin lids.

Always the walk up through Pos Nommer 5, with the tall wall on the right and the small laying-out room on the left

And the half-opened door through which they brought the bodies — the sawdust underfoot sometimes hiding the blood and mess.

They hanged a woman once. Her screams on the way to the gallows woke us at dawn. "They had to put her in a straitjacket first," a young *boer* told us afterwards.

"They always have to put on a sort of chastity belt for women," he added.

Stepping over the sawdust, we understood why.

The same young man came to the workshops one morning looking green-gilled. A hangover, we joked. No, he said, his turn to attend that morning's session in B2

They'd done six at once and the rope had pulled one of the "kaffir's" skin right off his face. "*Helse gemors* (hell of a mess)," he said, then left us to have his tea while we carried on welding

That was the most terrifying part of Central. you accommodated the sound and presence of the gallows, learnt to adapt to them as a necessary part of prison life.

The current process of negotiation is, I'm told, an attempt to move beyond these structures. I would hope so.

But, purely in the spirit of negotiation, here are two prerequisites for reintroducing the rope:

First, let's confirm the so-called deterrent value by going public After all, Nigeria publicly shot armed robbers on Bar Bench in Lagos, Idi Amin held public executions. Let us, in our new, open South Africa, celebrate the establishment of an independent TV by rolling in the cameras at "Beverley Hills", so that we can have the shit and blood and twitching bodies brought to us in full colour over breakfast.

More seriously, let those who prescribe the law administer it.

All judges have the right to visit any prison at any time — though very few, to their discredit, have even bothered to do so.

Let it be legally required of every judge who dons the black cap that he personally attend the subsequent execution, personally assist the doctor who, 20 minutes after the drop, examines the bodies, and personally assist the cleaners in mopping up the mess and hauling down the coffins.

The judges should bring the pro-hanging MPs with them. Anything less is a dereliction of responsibility.

Equally, a return to the rope is an admission by our rulers that they cannot break with the mechanics of apartheid.

It applies in all prisons, wherever they kill people officially. But there's a peculiar difference in South Africa, which we as white political prisoners learnt most forcibly

We were the effective blacks of that society, with the worst conditions, the least privileges and no say over any aspects of our lives, or influence over the regulations which controlled us

We learnt to survive in a society which is essentially corrupt and devoid of moral core, established only to preserve a semblance of order.

Where, unlike school, you can't be expelled for misbehaviour. Step out of line and you get thumped. And the gallows are always there as the final solution for law and order.

It is a system which is dehumanising and corrupting It quickly produces cynicism, frustration and anger

Today, it is still the reality for black South Africans In the absence of real change, we remain an imprisoned society.

# ISSUE: 'I wished I could fly away like a bird, or be a small insect so I could disappear into the nooks and crannies of my cell'

W/mail 28/5 - 3/6/93 (252)

*By* **TAKALANI MAMPHAGO**, *a former Weekly Mail trainee who was sentenced to death and spent more than a year on death row*

THERE is a photo of my agonised face in the sheriff's office at Pretoria Central, taken while I was on death row. The passage near the office leads to the gallows, where many have passed on a journey of no return My soul would have wasted, too, had I not enjoyed the support of the people

Horrific memories still haunt me I remember the three guys who, after their last church service, called goodbye to us on their way to the noose I had neither peace of mind nor did I derive comfort from sleep that night.

I found myself on death row in 1989 after being sentenced in the Rand Supreme Court for murder The case arose from the killing of strike-breakers during the 1987 railways strike.

In April 1989, I received a photo of my 18-month-old daughter, who had been born in my absence I would have felt better had she not been born' This seemed like my last journey in life and I thought my child would be orphaned and scarred for the rest of her life Who would have known what to say had she insisted on knowing the whereabouts of her father?

I wished I could fly away like a bird, or be a small insect so I could disappear into the nooks and crannies of my cell I could not tell my mother and my wife that people were hanged every day in that place I did not want to exacerbate their pain

At the time I was condemned, I was about to write my first assignment for a Unisa law degree I asked the head of the prison whether I would be able to do so He replied in Afrikaans *"Jy is hierso om dood toe te gaan, weet jy nie?* (You are here to die, don't you know?)"

My child was prevented from visiting me, and I challenged the prison head about this restriction He referred me to the "regulations book"

In December 1989, we death-row inmates decided to revolt against our situation and the conditions in the prison Our only option was to go on hunger strike should the prison authorities fail to address our grievances We gave them the whole month of January 1990 to respond.

In February 1990, many of us went on a hunger strike. This time the authorities responded positively, meeting our demands for exercise kits, training shoes and the opening of the prison tuckshop to all We were also allowed visits by our children

The first time I saw my child, I felt almost like I was outside and free, even though we were separated by thick glass and spoke through an intercom I wished I could cuddle her and hug her mother. We were given 40 minutes, which I asked to be extended The authorities agreed

After February 1990, our prospects improved. capital punishment was suspended and political prisoners released We hoped this would be our vehicle out of the darkness Then the state started reneging on agreements with the African National Congress This saw our hopes dwindle

I remember the letter I wrote on behalf of my fellow comrades to the ANC Among other things, it said "(President FW) de Klerk is promising justice to all South Africans This is at the time when the word negotiations has become synonymous with the hope for a new South Africa It is ironic, then, that large numbers of us are condemned and still flowing into this dungeon. The thought that we are awaiting our appointment with the hangman weighs heavily on us But, above all, the trauma our mothers, fathers, sisters, brothers, wives and loved ones have to undergo becomes unbearable to us"

I was released last year as a result of the amnesty for political prisoners, and have started to live again But I want to stress that the death penalty traumatises the loved ones of those who are awaiting their appointment with death

To the victims of violent crime and their relatives, I say I understand your feelings, but the death penalty is not an appropriate way to alleviate the high crime rate Social conditions are the main contributing factor to violence

# Time for Peace Accord to be re-dedicated – Goldstone

Star 28/5/93

PRETORIA — Participants in today's Goldstone Commision hearing into last week's Tokoza violence will be quizzed on what steps they had taken to inplement the commission's previous recommendations, Goldstone Commission chairman Mr Justice Richard Goldstone said yesterday.

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If the recommendations had "not been implemented it would mean the commission was "wasting its time", he said

Mr Justice Goldstone was addressing the Pretoria Press Club where he was awarded the club's Newsmaker of 1992 award.

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The commission chairman said the time had come for Peace Accord signatories to rededicate themselves to extend — and more importantly — to carry out the peace principles faithfully and in substance.

The time was also ripe for those parties in the multiparty forum who had not done so, to sign the National Peace Accord and become active participants in its structures, he added.

"We need strong and credible government, strong and credible policing and law and order as a matter of the greatest urgency. The latter will not come without the former," he said.

There were people in the country who clearly wished the negotiations to fail, he added. — Sapa.

# Putting the noose to the vote

W/Mail 28/5-3/6/93. (252)

*Despite opposition from its negotiating partners, the government will ask parliament to vote on the resumption of the death penalty. By* **ALEX DODD**

WITHIN weeks the tricameral parliament will unilaterally decide on whether 300 South Africans should be hanged At the same time, the government's key negotiating partner, the African National Congress, vehemently opposes capital punishment.

In an apparent response to the spate of alleged Azanian People's Liberation Army attacks on whites, President FW de Klerk announced at the end of March that a free vote would be staged in parliament on the death sentence.

A spokesman for the Ministry of Justice confirmed that the vote, which would decide whether the moratorium on hanging should be extended or terminated, was expected to take place at the end of this month. It now looks set for June

In his controversial address to parliament, De Klerk said the "wave of cruel murder and homicide, the current disrespect for human life and the delays in the negotiation process" made it difficult for the government to maintain the moratorium on hanging.

In many cases, the connection between current violence and those on death row is far from clear. Professor of Public Law at the University of Cape Town Hugh Corder has argued: "The lifting of the moratorium now will mean that people who were sentenced to death at least four years ago, and whose crimes have nothing to do with the present violence, will be hanged forthwith"

Shortly after the assassination of South African Communist Party general secretary Chris Hani, the SACP reaffirmed its strong opposition to the reinstatement of capital punishment. SACP politburo member Jeremy Cronin said Hani's murder had not in any way changed the party's conviction that "hanging is a barbaric way of punishing people that does not resolve anything"

"The SACP advocates a humane form of punishment that effectively deals with the root causes of crime The whole problem can't even be approached until there is major moral and socio-economic reconstruction," he said

"We need a legitimate court system in which the judges who pass sentences are conscious of the socio-economic problems which are a huge motivating factor behind the perpetration of crimes."

Head of the ANC's legal department Matthew Phosa said the party was "deeply disturbed" by the government's recent moves to reconsider the moratorium on hanging, adding that the ANC would campaign against its reinstatement

"We've had the death penalty in this country and crime continues — Johannesburg is the murder capital of the world. We don't think the death penalty has a deterrent effect

"We feel the government's support of capital punishment is motivated by a spirit of revenge," said Phosa "This is evidenced by the renewed debate around the subject which has only come as a result of the killing of a few white people Nobody was shouting for the death penalty in response to the more than 8 000 deaths in Natal."

Pan Africanist Congress legal head Willie Seriti said the state should take the lead in showing people that all human life should be valued and that there was no reason to deliberately take the life of another human being In South Africa, the death penalty had been justified on racial grounds. Seriti pointed to the 1947 Lansdown Commission report, which declared: "It is common knowledge based on the experience of the courts that, in the mind of the undeveloped native recently brought into contact with Western civilisation, the sanctity of human life is a matter of less concern than it would be to the Western man."

The Democratic Party, by contrast, has equivocated on hanging — in its proposals for a Bill of Rights, it ducks the issue DP MP Peter Soal said DP members would vote in parliament according to their personal convictions — although he, personally, favoured the abolition of the death penalty.

On the pro-hanging side of the debate stand the National Party, the Inkatha Freedom Party and the parties of the far right.

De Klerk has publicly expressed his support for the restoration of capital punishment, saying it "should be part of the legal system and retained in a limited sense", as has Law and Order Minister Hernus Kriel and Correctional Services Minister Adriaan Vlok. In a random survey by the *Sunday Times,* all NP MPs — white, coloured or Indian — emerged as pro-hanging.

IFP spokesman Ed Tillet said the IFP had not formally adopted a policy on the death penalty. "However, there is widespread support within the party for the imposition of the death penalty in certain carefully defined circumstances," he said.

For Boerestaat Party leader Robert van Tonder, the abolition of the death penalty in an African country would be "disastrous".

"Since the moratorium there haven't been proper sentences so people have been doing as they like, with no consequence. We have a large element of non-Western people here and they haven't got our age-old tradition of democracy and our old Christian culture"

"Africans have been expendable under the death penalty ever since Dingaan and Chaka and the other chiefs Their system of justice is to kill people. That's the only system of justice they understand"

announce for general information that the paragraph titled "New Exclusion" of Board Notice 26 of 1989, as amended, is amended by the following deletions in square brackets and underlined additions:

"All leave benefits in terms of an approved scheme applicable to employees in the service of local authorities on or before [30 June 1993] 30 June 1994 and more beneficial than those applicable to a deputy director-general, are excluded from 'leave scheme' as defined in the Act, with the exception of those leave conditions amended during the period 1 January 1987 to [30 June 1993] 30 June 1994 and of a more beneficial nature than the benefits in force before 1 January 1987. This exclusion applies to individual cases for as long as the employee concerned stays in the service of the local authority where the benefit was earned, or until such time as he chooses to receive his leave benefits in terms of the scheme within the Board's determination.".

**J. VENTER,**

Acting Secretary.

(28 May 1993)

## NATAL LAW SOCIETY

### AMENDMENT OF RULES

It is hereby notified that the following amendments to the Rules of the Natal Law Society as published in *Government Gazette* No. 6316 dated 2 March 1977, and as amended by—

*Government Gazette* No. 6848 dated 15 February 1980,
*Government Gazette* No. 7924 dated 20 November 1981,
*Government Gazette* No. 9316 dated 13 July 1984;
*Government Gazette* No. 10100 dated 21 February 1986;
*Government Gazette* No. 10679 dated 3 April 1987,
*Government Gazette* No. 12300 dated 23 February 1990;
*Government Gazette* No. 13933 dated 24 April 1992;

have been made by its members at an Annual General Meeting, and after consultation with the Judge President of Natal, have been approved by the Chief Justice of South Africa in terms of section 74 of the Attorneys Act, No 53 of 1979

1. In Rule 14—
   (1) in paragraph (b), by the substitution for subparagraph (vi) of the following subparagraph:
   "(vi) Doing or permitting in the carrying on of, or in the course of, his practice anything which may reasonably be regarded as likely to attract business unfairly.";

"Nuwe uitsluiting" van Raadskennisgewing 26 van 1989, soos gewysig, soos volg deur die weglatings in tekshakies en onderstreepte byvoegings, gewysig word:

"Alle verlofvoordele van werknemers wat op of voor [30 Junie 1993] 30 Junie 1994 in diens van plaaslike owerhede is of was en op wie 'n goedgekeurde verlofskema van toepassing is wat gunstiger is as dié van 'n adjunk-direkteur-generaal, word uitgesluit van 'verlofskema' soos in die Wet omskryf, met uitsondering van daardie verlofvoordele wat in die tydperk 1 Januarie 1987 tot [30 Junie 1993] 30 Junie 1994 gewysig en gunstiger is as dié voordele wat voor 1 Januarie 1987 gegeld het. Hierdie uitsluiting geld per individuele geval vir solank die betrokke werknemer in die diens van die plaaslike owerheid waar hy die voordeel verdien het, bly, of tot wanneer hy verkies om volgens die stelsel binne die Raad se vasstelling sy verlofvoordele te ontvang.".

**J. VENTER,**

Waarnemende Sekretaris.

(28 Mei 1993)

## NATALSE WETSGENOOTSKAP

### WYSIGING VAN REËLS

Hiermee word kennis gegee dat die volgende wysigings van die Reels van die Natalse Wetsgenootskap soos afgekondig in *Staatskoerant* No. 6316 gedateer 2 Maart 1977, en gewysig deur—

*Staatskoerant No* No. 6848 gedateer 15 Februarie 1980,
*Staatskoerant* No. 7924 gedateer 20 November 1981;
*Staatskoerant* No 9316 gedateer 13 Julie 1984;
*Staatskoerant* No. 10100 gedateer 21 Februarie 1986,
*Staatskoerant* No 10679 gedateer 3 April 1987,
*Staatskoerant* No 12300 gedateer 23 Februarie 1990,
*Staatskoerant* No. 13933 gedateer 24 April 1992,

deur lede op 'n Algemene Jaarvergadering gemaak is en na oorlegpleging met die Regter-president van Natal is dit deur die Hoofregter van Suid-Afrika kragtens artikel 74 van die Wet op Prokureurs, No. 53 van 1979, goedgekeur:

1. In Reel 14—
   (1) in paragraaf (b), om subparagraaf (vi) deur die volgende subparagraaf te vervang:
   "(vi) om enigiets in die loop van of in die uitvoering van sy praktyk te doen of toe te laat wat redelikerwys geag kan word waarskynlik besigheid op onbillike wyse aan te trek.",

(2) by the substitution for paragraph (d) of the following paragraph:

"(d) Subject to the provisions of Rule 14 (b) (vi), a member may at his discretion publicise his practise, or permit another person to do so, provided that in publicising his practice he, or such other person, shall not do anything which in any manner compromises or impairs, or is likely to compromise or impair, any of the following:

(i) His independence or integrity;

(ii) the client's freedom to instruct an attorney of his choice;

(iii) his duty to act in the best interest of the client,

(iv) his good repute or that of the attorneys' profession;

(v) his proper standard of work.".

**2.** In Rule 15, by the substitution for paragraph (1) of the following paragraph:

"(1) The costs of the Society shall be deemed to include a basic charge of R200 in respect of administrative services not otherwise itemised and a charge of R100 per hour for every hour or part thereof during which the Secretary is required to appear before an enquiry committee in terms of Rule 15 (d) (vi) "

**3.** By the insertion of the following rule after Rule 24 and the existing Rule 25 to be renumbered to read Rule 26:

"25. **Law Clinics**

(1) Any law clinic which seeks recognition as a law clinic for the purposes of the Act and of this Rule shall comply with the following requirements

(a) The law clinic shall be properly constituted, organised and controlled to the satisfaction of the Council, either as part of the faculty of law at a university in the Republic or as a law centre controlled by a non-profit making organisation;

(b) the law clinic must provide legal services to the public;

(c) the legal services provided by the law clinic must be rendered free of any direct or indirect charge to the recipient of those services; provided that—

(i) the law clinic may recover from the recipient of its services any amounts actually disbursed by it on behalf of the recipient; and

(2) om paragraaf (d) deur die volgende paragraaf te vervang:

"(d) Onderworpe aan die bepalings van Reel 14 (b) (vi), kan 'n lid na goeddunke vir sy praktyk reklame maak, of 'n ander persoon toelaat om dit te doen, met dien verstande dat wanneer reklame vir die praktyk gemaak word hy of sodanige ander persoon niks sal doen wat op enige wyse enige van die volgende sal kompromitteer of belemmer of waarskynlik sal kompromitteer of belemmer nie:

(i) Sy onafhanklikheid of eerbaarheid;

(ii) die klient se vryheid om 'n prokureur van sy eie keuse opdrag te gee;

(iii) sy plig om in die beste belang van die klient op te tree;

(iv) sy goeie naam of dié van die prokureursberoep;

(v) sy behoorlike werkstandaard.".

**2.** In Reel 15, om paragraaf (1) deur die volgende paragraaf te vervang:

"(1) Die Genootskap se koste word geag 'n basiese vordering van R200 in te sluit ten opsigte van administratiewe dienste wat nie anders gespesifiseer is nie en 'n vordering van R100 per uur vir elke uur of deel daarvan waartydens die Sekretaris voor die ondersoekkomitee moet verskyn ingevolge Reël 15 (d) (vi)."

**3.** Deur die invoeging van die volgende reël na Reel 24 en dat die bestaande Reel 25 hernommer word na Reel 26

"25. **Regsklinieke**

(1) Enige regskliniek wat vir doeleindes van die Wet en van hierdie Reel as sodanig erken wil word, moet aan die volgende vereistes voldoen:

(a) Die regskliniek moet behoorlik gekonstitueer, georganiseer en beheer word tot die bevrediging van die Raad, óf as deel van 'n regsfakulteit verbonde aan 'n universiteit in die Republiek óf as 'n regsentrum wat deur 'n organisasie sonder winsoogmerk beheer word;

(b) die regskliniek moet regsdienste aan die publiek verskaf,

(c) die regsdienste wat deur die kliniek verskaf word, moet sonder koste, direk of indirek, aan die ontvanger van sodanige dienste gelewer word, met dien verstande dat—

(i) die regskliniek van die ontvanger van sodanige dienste enige bedrae mag invorder wat werklik deur die regskliniek ten behoewe van die ontvanger uitbetaal is, en

(ii) where the law clinic acts for the successful litigant in litigation it will be entitled to take cession from such litigant of any order for costs awarded in favour of the litigant and to recover those costs for its own account;

(d) the services may be rendered only to a person who would not otherwise be able to afford them;

(e) the law clinic may not undertake work in connection with—

(i) the drafting of Wills;

(ii) subject to the provisions of paragraph (f), the administration, liquidation or distribution of the estate of any deceased person, insolvent person, mentally ill person or any other person under any other legal disability,

(iii) the judicial management or liquidation of any company;

(iv) the transfer or mortgaging of immovable property;

(v) the lodging or processing of any claims under the Multilateral Motor Vehicle Accidents' Fund Act, No. 93 of 1989, its predecessors or its successors;

(vi) such other work as may from time to time be prescribed in this Rule;

(f) the law clinic may undertake work in connection with the administration, liquidation or distribution of the estate of any deceased person only in those cases where the executor has declined nomination and the Master of the Supreme Court has exercised his discretion in terms of the Administration of Estates Act, 1965, and has appointed an attorney employed full-time at a law clinic as Executor;

(g) the name under which the law clinic is to carry on its activities, its letterheads and other stationery shall require the prior approval of the Council;

(h) attorneys in the employ of the law clinic may be remunerated only by way of salaries payable by the clinic or by the organisation to which it is attached.

(ii) waar die regskliniek vir 'n suksesvolle gedingvoerder in 'n geding optree, sal hy geregtig wees om van sodanige gedingvoerder sessie te neem van enige kostebevel wat ten gunste van die gedingvoerder gemaak is en om sodanige koste vir eie rekening in te vorder;

(d) die dienste mag slegs gelewer word aan 'n persoon wat dit nie andersins sou kon bekostig nie,

(e) die regskliniek mag nie werk onderneem nie in verband met—

(i) die opstel van testamente,

(ii) onderworpe aan die bepalings van paragraaf (f), die administrasie, likwidasie of verdeling van die boedel van enige oorlede persoon, insolvente persoon, geestesongestelde persoon of enige ander persoon met enige ander juridiese ongeskiktheid;

(iii) die geregtelike bestuur of likwidasie van enige maatskappy;

(iv) die oordrag of verbandgewing van onroerende eiendom;

(v) die indien of verwerking van enige eise kragtens die Multilaterale Motorvoertuigongelukkefondswet, No. 93 van 1989, sy voorgangers of sy opvolgers;

(vi) enige sodanige ander werk soos wat van tyd tot tyd in hierdie Reël bepaal mag word;

(f) die regskliniek mag werk onderneem in verband met die administrasie, likwidasie of verdeling van die boedel van enige oorlede persoon alleenlik in daardie gevalle waar die eksekuteur nominasie weggewys het en die Meester van die Hooggeregshof sy diskresie uitgeoefen het kragtens die Boedelwet, 1965, en 'n prokureur, wat voltyds in diens is van 'n regskliniek as Eksekuteur aangestel het;

(g) die naam waaronder die regskliniek sy aktiwiteite beskryf, asook die briefhoofde en ander skryfbehoeftes, die voorafgaande goedkeuring van die Raad benodig;

(h) prokureurs in diens van die regskliniek mag slegs by wyse van salarisse betaalbaar deur die kliniek of deur die organisasie waaraan dit verbonde is, vergoed word.

(2) If an attorney employed full-time at a law clinic wishes to engage a candicate attorney under articles of clerkship he may do so only if—

(a) the candidate attorney will be under his direct personal supervision or under the direct personal supervision of another attorney who is a member of the professional staff of the law clinic;

(b) the law clinic carries on its activities during normal business hours for not less than 11 months in any year;

(c) the law clinic has proper office systems with telephones, typing facilities, files and filing procedures, a diary system and at least elementary library facilities;

(d) the law clinic has a proper bookkeeping system and accounting procedures, and

(e) the law clinic handles a reasonably wide range of work to give the candidate attorney exposure to the kind of problems that a newly qualified attorney would expect to encounter and be able to handle competently during his first year of practice.".

(2) Indien 'n prokureur wat in voltydse diens by 'n regskliniek staan, van voorneme is om 'n kandidaatprokureur onder 'n leerkontrak in diens te neem, mag hy dit doen slegs indien—

(a) die kandidaatprokureur onder die direkte toesig van sodanige prokureur of onder die direkte persoonlike toesig van 'n ander prokureur wat 'n lid van die professionele personeel van die regskliniek is, dien;

(b) die regskliniek sy aktiwiteite bedryf gedurende normale besigheidsure vir nie minder nie as 11 maande in enige jaar;

(c) die regskliniek oor behoorlike kantoorstelsels met telefone, tikfasiliteite, lêers en liasseerprosedures, 'n dagboekstelsel asook ten minste elementêre biblioteekfasiliteite beskik;

(d) die regskliniek oor 'n behoorlike boekhoustelsel beskik en behoorlike rekeningkundige prosedures volg,

(e) die regskliniek 'n redelike wye verskeidenheid werk hanteer om sodoende die kandidaatprokureur bloot te stel aan die tipe probleme wat 'n pasgekwalifiseerde prokureur gedurende sy eerste jaar in die praktyk kan verwag om mee te doen te kry en vaardig behoort te kan hanteer.".

REPUBLIC OF SOUTH AFRICA

REPUBLIEK VAN SUID-AFRIKA



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## GOVERNMENT NOTICES

## DEPARTMENT OF JUSTICE

**No. R. 959** **28 May 1993**

MAGISTRATES' COURTS: AMENDMENT OF THE RULES OF COURT 252

The Rules Board for Courts of Law has, under section 6 of the Rules Board for Courts of Law Act, 1985 (Act No. 107 of 1985), with the approval of the Minister of Justice, made the rules in the Schedule

### SCHEDULE

**Definitions**

**1.** In this Schedule "the Rules" means the rules published under Government Notice No R 1108 of 21 June 1968, as amended by Government Notices Nos R 3002 of 25 July 1969, R 490 of 26 March 1970, R 947 of 2 June 1972, R 1115 of 28 June 1974, R 1285 of 19 July 1974, R. 689 of 23 April 1976, R 261 of 25 February 1977, R. 2221 of 28 October 1977, R 327 of 24 February 1978, R 2222 of 10 November 1978, R 1449 of 29 June 1979, R 1314 of 27 June 1980, R 1800 of 28 August 1981, R 1139 of 11 June 1982, R. 1689 of 29 July 1983, R 1946 of 9 September 1983, 1338 of 29 June 1984, R 1994 of 7 September 1984, R. 2083 of 21 September 1984, R. 391 of 7 March 1986, R. 2165 of 2 October 1987, R 1451 of 22 July 1988, R 1765 of 26 August 1988, R 211 of 10 February 1989, R 607 of 31 March 1989, R 2629 of 1 December 1989, R 186 of 2 February 1990, R 1887 of 8 August 1990, R. 1928 of 10 August 1990, R 1967 of 17 August 1990, R 1261 of 30 May 1991, R 2407 of 27 September 1991, R 2409 of 30 September 1991, R 405 of 7 February 1992, R 1510 of 29 May 1992 and R 1882 of 3 July 1992

**Amendment of rule 8 of the Rules**

**2.** Rule 8 of the Rules is hereby amended by the substitution in subrule (4) for the expression "subrule (4)" of the expression "subrule (3)"

## GOEWERNMENTSKENNISGEWINGS

## DEPARTEMENT VAN JUSTISIE

**No. R. 959** **28 Mei 1993**

LANDDROSHOWE: WYSIGING VAN DIE REELS VAN DIE HOF

Die Reelsraad vir Geregshowe het kragtens artikel 6 van die Wet op die Reelsraad vir Geregshowe, 1985 (Wet No 107 van 1985), met die goedkeuring van die Minister van Justisie, die reels in die Bylae gemaak

### BYLAE

**Woordomskrywing**

**1.** In hierdie Bylae beteken "die Reëls" die reels afgekondig by Goewermentskennisgewing No R 1108 van 21 Junie 1968, soos gewysig by Goewermentskennisgewings Nos R 3002 van 25 Julie 1969, R 490 van 26 Maart 1970, R 947 van 2 Junie 1972, R 1115 van 28 Junie 1974, R. 1285 van 19 Julie 1974, R 689 van 23 April 1976, R 261 van 25 Februarie 1977, R 2221 van 28 Oktober 1977, R 327 van 24 Februarie 1978, R 2222 van 10 November 1978, R 1449 van 29 Junie 1979, R 1314 van 27 Junie 1980, R 1800 van 28 Augustus 1981, R 1139 van 11 Junie 1982, R 1689 van 29 Julie 1983, R. 1946 van 9 September 1983, 1338 van 29 Junie 1984, R 1994 van 7 September 1984, R 2083 van 21 September 1984, R. 391 van 7 Maart 1986, R 2165 van 2 Oktober 1987, R 1451 van 22 Julie 1988, R 1765 van 26 Augustus 1988, R 211 van 10 Februarie 1989, R. 607 van 31 Maart 1989, R 2629 van 1 Desember 1989, R 186 van 2 Februarie 1990, R. 1887 van 8 Augustus 1990, R 1928 van 10 Augustus 1990, R 1967 van 17 Augustus 1990, R 1261 van 30 Mei 1991, R 2407 van 27 September 1991, R 2409 van 30 September 1991, R 405 van 7 Februarie 1992, R. 1510 van 29 Mei 1992 en R 1882 van 3 Julie 1992.

**Wysiging van reël 8 van die Reëls**

**2.** Reel 8 van die Reels word hierby gewysig deur in subreël (4) die uitdrukking "subreel (4)" deur die uitdrukking "subreel (3)" te vervang.

**Amendment of rule 43 of the Rules**

**7.** Rule 43 of the Rules is hereby amended by the deletion in subrule (2) of the words ", or if the applicant or his attorney is a person who is in terms of any law prohibited from being the occupier of land or premises within the distance of eight kilometres of such office, may give an address further than eight kilometres from such office but within the magisterial district in which such office is situated " 252 262

**Amendment of rule 63 of the Rules**

**8.** Rule 63 of the Rules is hereby amended—

(a) by the substitution in paragraph (e) of subrule (2) for the words "Basutoland, the Bechuanaland Protectorate" of the words "Lesotho, Botswana", and

(b) by the substitution in subrule (5) for the words "Basutoland, the Bechunanaland Protectorate" of the words "Lesotho, Botswana".

**Amendment of the First Schedule to the Rules**

**9.** The First Schedule to the Rules is hereby amended—

(a) by the substitution in Form 9 for the expression "6 (5) (b)" of the expression "19 (3)", and

(b) by the substitution in Form 10 for the expression "6 (5) (b)" of the expression "19 (3)"

**Commencement**

**10.** Rules 6, 8 and 9 shall come into operation on **28 June 1993** and rules 2, 3, 4, 5 and 7 shall come into operation on **1 July 1994**

**Wysiging van reël 43 van die Reëls**

**7.** Reel 43 van die Reels word hierby gewysig deur in subreel (2) die woorde ", of, indien die applikant of sy prokureur iemand is wat kragtens enige wet verbied word om die okkupeerder te wees van grond of 'n perseel wat binne 'n afstand van agt kilometers van sodanige kantoor gelee is, kan die kennisgewing 'n adres verder as agt kilometers van sodanige kantoor maar binne die landdrosdistrik waarin sodanige kantoor gelee is, bevat," te skrap

**Wysiging van reël 63 van die Reëls**

**8.** Reel 63 van die Reels word hierby gewysig—

(a) deur in paragraaf (e) van subreel (2) die woorde "Basoetoland, die Betsjoeanaland Protektoraat" deur die woorde "Lesotho, Botswana" te vervang, en

(b) deur in subreel (5) die woorde "Basoetoland, die Betsjoeanaland Protektoraat" deur die woorde "Lesotho, Botswana" te vervang.

**Wysiging van die Eerste Bylae by die Reëls**

**9.** Die Eerste Bylae by die Reels word hierby gewysig—

(a) deur in Vorm 9 die uitdrukking "6 (5) (b)" deur die uitdrukking "19 (3)" te vervang; en

(b) deur in Vorm 10 die uitdrukking "6 (5) (b)" deur die uitdrukking "19 (3)" te vervang

**Inwerkingtreding**

**10.** Reels 6, 8 en 9 tree op **28 Junie 1993** in werking en reels 2, 3, 4, 5 en 7 tree op **1 Julie 1994** in werking

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## INHOUD



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**Amendment of rule 49 of the Rules** 252

**3.** Rule 49 of the Rules is hereby amended by the substitution for subrule (1) of the following subrule:

"(1) A party to proceedings in which a default judgment has been given may within 20 days after the judgment has come to his knowledge apply to court upon notice to the other party to set aside such judgment and the court may upon good cause shown and, save where leave has been given to defend as a *pro Deo* litigant in terms of rule 53, provided the applicant has furnished to the respondent security for the costs of the default judgment plus an amount of R200 as security for the costs of the application, set aside the default judgment on such terms as it may deem fit Provided that the respondent may by consent in writing lodged with the clerk of the court waive compliance with the requirement of security "

**Amendment of Part I of Table B of Annexure 2 to the Rules**

**4.** Part I of Table B of Annexure 2 to the Rules is hereby amended by the substitution for the expression "The total amount to be allowed in any one case shall not exceed R75,00 " of the expression "The total amount to be allowed for each tracing shall not exceed R95,00 "

**Commencement**

**5.** These rules shall come into operation on **28 June 1993.**

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**No. R. 960** **28 May 1993**

AMENDMENT OF THE RULES REGULATING THE CONDUCT OF THE PROCEEDINGS OF THE SEVERAL PROVINCIAL AND LOCAL DIVISIONS OF THE SUPREME COURT OF SOUTH AFRICA

The Rules Board for Courts of Law has, under section 6 of the Rules Board for Courts of Law Act, 1985 (Act No 107 of 1985), with the approval of the Minister of Justice, made the rules in the Schedule

**SCHEDULE** 252 262

**Definitions**

**1.** In this Schedule "the Rules" means the rules regulating the conduct of the proceedings of the several provincial and local divisions of the Supreme Court of South Africa published under Government Notice No R 48 of 12 January 1965, as amended by Government Notices Nos R 235 of 18 February 1966, R. 2004 of 15 December 1967, R 3553 of 17 October 1969, R 2021 of 5 November 1971, R 1985 of 3 November 1972, R 480 of 30 March 1973, R 639 of 4 April 1975, R 1816 of 8 October 1976, R 1975 of 29 October 1976, R 2477 of 17 December 1976, R 2365 of 18 November 1977, R 1546 of 28 July 1978, R. 1577 of 20 July 1979, R 1535 of 25 July 1980, R 2527 of 5 December 1980, R 500 of 12 March 1982, R. 773 of 23 April 1982, R. 775 of 23 April 1982, R 1873 of 3 September 1982, R. 2171 of 6 October 1982, R 645 of 25 March 1983, R. 841 of 22 April 1983, R 1077 of 20 May 1983, R 1996 of 7 September 1984, R 2094 of 13 September 1985, R. 810 of 2 May

**Wysiging van reël 49 van die Reëls**

**3.** Reel 49 van die Reels word hierby gewysig deur subreel (1) deur die volgende subreel te vervang

"(1) 'n Party by verrigtinge waarin 'n vonnis by verstek gegee is, kan binne 20 dae nadat so 'n vonnis tot sy kennis gekom het, met kennisgewing aan die ander party by die hof aansoek doen om tersydestelling daarvan en die hof kan as goeie redes aangevoer is en, behalwe waar verlof verleen is om as 'n *pro Deo*-gedingvoerder kragtens reel 53 te verdedig, mits die applikant aan die respondent sekerheid gestel het vir die koste van die verstekvonnis plus 'n bedrag van R200 as sekerheidstelling vir die koste van die aansoek, die verstekvonnis tersyde stel met sodanige bepalings as wat hy goedvind· Met dien verstande dat die respondent by skriftelike toestemming by die klerk van die hof ingedien, van die vereiste van sekerheidstelling kan afsien "

**Wysiging van Deel I van Tabel B van Bylae 2 by die Reëls**

**4.** Deel 1 van Tabel B van Bylae 2 by die Reels word hierby gewysig deur in paragraaf (d) van item 3 die uitdrukking "Die totale bedrag wat in enige enkele geval toelaatbaar is, oorskry nie R75,00 nie." deur die uitdrukking "Die bedrag wat vir elke opsporing toelaatbaar is, oorskry nie R95,00 nie " te vervang

***Inwerkingtreding***

**5.** Hierdie reels tree op **28 Junie 1993** in werking

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**No. R. 960** **28 Mei 1993**

WYSIGING VAN DIE REELS WAARBY DIE VERRIGTINGE VAN DIE VERSKILLENDE PROVINSIALE EN PLAASLIKE AFDELINGS VAN DIE HOOGGEREGSHOF VAN SUID-AFRIKA GEREEL WORD

Die Reelsraad vir Geregshowe het kragtens artikel 6 van die Wet op die Reelsraad vir Geregshowe, 1985 (Wet No. 107 van 1985), met die goedkeuring van die Minister van Justisie, die reels in die Bylae gemaak

**BYLAE**

**Woordomskrywing**

**1.** In hierdie Bylae beteken "die Reels" die reels waarby die verrigtinge van die verskillende provinsiale en plaaslike afdelings van die Hooggeregshof van Suid-Afrika gereel word, afgekondig by Goewermentskennisgewing No R 48 van 12 Januarie 1965, soos gewysig by Goewermentskennisgewings Nos R 235 van 18 Februarie 1966, R 2004 van 15 Desember 1967, R 3553 van 17 Oktober 1969, R 2021 van 5 November 1971, R 1985 van 3 November 1972, R 480 van 30 Maart 1973, R 639 van 4 April 1975, R 1816 van 8 Oktober 1976, R 1975 van 29 Oktober 1976, R 2477 van 17 Desember 1976, R. 2365 van 18 November 1977, R. 1546 van 28 Julie 1978, R 1577 van 20 Julie 1979, R 1535 van 25 Julie 1980, R 2527 van 5 Desember 1980, R 500 van 12 Maart 1982, R 773 van 23 April 1982, R 775 van 23 April 1982, R 1873 van 3 September 1982, R 2171 van 6 Oktober 1982, R 645 van 25 Maart 1983, R 841 van 22 April 1983, R 1077 van 20 Mei 1983, R 1996 van 7 September 1984, R. 2094 van 13 September 1985, R 810 van 2 Mei 1986, R 2164 van 2 Oktober

1986, R. 2164 of 2 October 1987, R 2642 of 27 November 1987, R 1421 of 15 July 1988, R. 210 of 10 February 1989, R 608 of 31 March 1989, R 2628 of 1 December 1989, R 185 of 2 February 1990, R 1929 of 10 August 1990, R 1262 of 30 May 1991, R. 2410 of 30 September 1991, R 2845 of 29 November 1991, R 406 of 7 February 1992, R 1883 of 3 July 1992 and R 109 of 22 January 1993

**Amendment of rule 6 of the Rules**

**2.** Rule 6 of the Rules is hereby amended—

(a) by the deletion in paragraph (b) of subrule (5) of the words ", or, if the applicant is a person who is in terms of any law prohibited from being the occupier of land or premises within the distance of eight kilometres of such office, an address further than eight kilometres from such office but within the magisterial district in which such office is situated may be appointed,", and

(b) by the deletion in subparagraph (i) of paragraph (d) of subrule (5) of the words ", or, if such person is a person who is in terms of any law prohibited from being the occupier of land or premises within the distance of eight kilometres of such office, may so appoint an address further than eight kilometres from such office but within the magisterial district in which such office is situated,"

**Amendment of rule 16 of the Rules**

**3.** Rule 16 of the Rules is hereby amended by the substitution for paragraph (b) of subrule (2) of the following paragraph

"(b) If such party does not appoint a further attorney, such party shall in the notice of termination appoint an address within eight kilometres from the office of the registrar for the service on him of all documents in such proceedings ".

**Amendment of rule 17 of the Rules**

**4.** Rule 17 of the Rules is hereby amended by the deletion in subrule (3) of the proviso

**Amendment of rule 19 of the Rules**

**5.** Rule 19 of the Rules is hereby amended by the deletion in subrule (3) of the words ", or if he is a person who is in terms of any law prohibited from being the occupier of land or premises within such distance of eight kilometres of such office, he may appoint an address further than eight kilometres from such office but within the magisterial district within which such office is situated."

**Amendment of rule 37 of the Rules**

**6.** Rule 37 of the Rules is hereby amended by the substitution in subrule (3) for the expression "(b)" of the expression "(c)".

1987, R. 2642 van 27 November 1987, R. 1421 van 15 Julie 1988, R 210 van 10 Februarie 1989, R. 608 van 31 Maart 1989, R 2628 van 1 Desember 1989, R 185 van 2 Februarie 1990, R 1929 van 10 Augustus 1990, R 1262 van 30 Mei 1991, R 2410 van 30 September 1991, R 2845 van 29 November 1991, R 406 van 7 Februarie 1992, R 1883 van 3 Julie 1992 en R 109 van 22 Januarie 1993

**Wysiging van reël 6 van die Reëls**

**2.** Reel 6 van die Reels word hierby gewysig—

(a) deur in paragraaf (b) van subreel (5) die woorde ", of, indien die applikant iemand is wat kragtens enige wet verbied word om die okkupeerder te wees van grond of 'n perseel wat binne 'n afstand van agt kilometers van sodanige kantoor gelee is, kan 'n adres verder as agt kilometers van sodanige kantoor maar binne die landdrosdistrik waarin sodanige kantoor gelee is, genoem word," te skrap, en

(b) deur in subparagraaf (i) van paragraaf (d) van subreel (5) die woorde ", of, indien so iemand 'n persoon is wat kragtens enige wet verbied word om die okkupeerder te wees van grond of 'n perseel wat binne 'n afstand van agt kilometers van sodanige kantoor gelee is, kan hy 'n adres verder as agt kilometers van sodanige kantoor maar binne die landdrosdistrik waarin sodanige kantoor gelee is soos voornoemd vermeld," te skrap.

**Wysiging van reël 16 van die Reëls**

**3.** Reel 16 van die Reels word hierby gewysig deur paragraaf (b) van subreel (2) deur die volgende paragraaf te vervang

"(b) As die bedoelde party nie 'n ander prokureur aanstel nie, moet die party in die kennisgewing van opsegging ook 'n adres aangee wat binne agt kilometer van die kantoor van die griffier is, vir die betekening aan hom van alle dokumente in die verrigtinge "

**Wysiging van reël 17 van die Reëls**

**4.** Reel 17 van die Reels word hierby gewysig deur in subreel (3) die voorbehoudsbepaling te skrap

**Wysiging van reël 19 van die Reëls**

**5.** Reel 19 van die Reels word hierby gewysig deur in subreël (3) die woorde ", of, indien die verweerder iemand is wat kragtens enige wet verbied word om die okkupeerder van grond of 'n perseel te wees wat binne sodanige afstand van agt kilometers van sodanige kantoor gelee is, kan hy 'n adres verder as agt kilometers van sodanige kantoor maar binne die landdrosdistrik waarin sodanige kantoor gelee is, aangee," te skrap

**Wysiging van reël 37 van die Reëls**

**6.** Reel 37 van die Reels word hierby gewysig deur in subreel (3) die uitdrukking "(b)" deur die uitdrukking "(c)" te vervang

# Hopes fade for leaders' meeting

B/Day 28/5/93

WILSON ZWANE

HOPES that ANC president Nelson Mandela and Inkatha leader Mangosuthu Buthelezi would meet soon to address political rivalry between their organisations dimmed yesterday.

Mandela, who had said he was happy to meet Buthelezi if King Goodwill Zwelithini brokered the meeting, said yesterday the Zulu monarch had withdrawn as a facilitator

Mandela said the king's position was that "TV got it all wrong", Sapa reports

ANC spokesman Carl Niehaus said the withdrawal did not necessarily mean a meeting between Buthelezi and Mandela was off.

"It does, however, complicate matters," he said

The king apparently called on Buthelezi and Mandela in recent weeks to meet to address violence.

TIM COHEN reports that Buthelezi said Inkatha had proposed that the issue of violence should top the agenda of multiparty talks, with particular attention on the disbanding of private armies

He told a news conference in Cape Town that whenever Inkatha raised the matter, the ANC and government were "virtually apoplectic", accusing Inkatha of trying to delay negotiations and of raising the matter prematurely

Buthelezi said he found the "hype" about the need for an election date astonishing.

It amounted to "putting the constitutional cart before the constitutional horse"

Inkatha CE and head of the party's general election campaign Joe Mathews refused to announce the party's support targets in an election, but said the party was "playing the game to win".

If this did not occur, Inkatha hoped to be the strongest opposition party, holding the balance of power.

Matthews said Inkatha had set itself three major ojbectives in the first nonracial election:

- To win a sufficient percentage of the overall vote to be an essential factor in any coalition government;
- To do well in several regions so that Inkatha would form an essential part of any coalition at the regional level, and
- To perform well in the KwaZulu/Natal region where Inkatha expected to win, either in its own right or in coalition with another party.

Meanwhile, Mandela told school children yesterday that pupil mass action was not incompatible with a call to pupils to return to class.

Addressing pupils during a tour of Witwatersrand township schools, Mandela emphasised the importance of education

"Education is the only weapon if you want to be a leader of your people," he told them.

However, the ANC president also endorsed his organisation's support for striking teachers and urged pupils to join the "fight" for equal education

Mandela held a news briefing at King Edward VII High School in Houghton

- GERALD REILLY reports council chairman Allan Powell said yesterday that the Teachers' Federal Council had requested an urgent interview with National Education Minister Piet Marais over the education crisis

After an extraordinary meeting of the TFC's executive committee, he said the present situation was cause for grave concern

Certain facets called for most urgent attention.

# Cosatu push for child care

ERICA JANKOWITZ

COSATU has called on its affiliates to celebrate international children's day on Tuesday by persuading members to take their children to their work places.

Cosatu gender co-ordinator Dorothy Mokgalo said yesterday different regions were planning events as well as a two-phase strategy intended to promote Cosatu's parental campaign.

The two campaign demands were for 20 days' paid child care leave a year and subsidised child care facilities for workers.

She said both parents should be entitled to child care leave to handle school problems and look after sick children. B/Day

She said employers should take some responsibility for the provision of child care facilities.

She said affiliates were taking up the issue at individual company and industry level and would present management with demands on Tuesday. 28/5/93.

A snap Business Day survey showed most companies were unaware of Cosatu's plans.

SA Breweries said no one under the age of 18 was allowed on its factory premises. It felt the union would not try this tactic.

AECI said chemical factories were hazardous and children would not be allowed into factory areas "for their own safety".

Pick 'n Pay said when Cosatu a few years ago had first suggested bringing children to workplaces, very few employees had complied. However, the group would accommodate children as far as possible.

An East Rand metal factory said Numsa had approached management about bringing children to work. Children would not be allowed on to the premises, and the union had agreed with the decision. A spokesman said the issues raised would be discussed.



# Goldstone panel advisers named

PRETORIA — A former Watergate prosecutor and Zimbabwe's electoral commission chairman are among the members of a panel appointed to advise the Goldstone commission on election violence

Sapa reports that Judge Richard Goldstone said yesterday a public inquiry into "ways and means" of curbing violence and intimidation in the forthcoming election would be held in Cape Town in August

On the panel are acting US attorney-general and former Watergate prosecutor Charles Ruff and Zimbabwe's electoral commission chairman Prof Walter Kamba Other members are John Olivier (HSRC), Prof C Shearing, (University of the Western Cape), Prof T Geldenhuys (Unisa), Prof Otty Nxumalo (Zululand University), Canadian deputy chief electoral officer Prof Ron Gould, Prof J Elklit of Denmark and Ghanaian ambasador Theresa Stiggner-Scott. (252)

- WILSON ZWANE reports that an HSRC report has found that an effective system of rumour control will help curb violence between township and hostel residents.

In the reporthanded to Goldstone yesterday, the organisation said a lack of communication between hostels and surrounding communities was at the bottom of the conflict

# Bill seeks to ensure equal media coverage

Star 28/5/93

By Esther Waugh

A summary of an "early draft" of an Independent Media Commission Bill is to be presented to the Negotiating Council for discussion today

In terms of the Bill, a seven-member independent media commission is to be appointed. It would ensure equal treatment of political groups by broadcasting companies and make sure that State-financed publications were not used to the advantage of any group.

The Bill contains provisions on political broadcasts and political advertisements. No details of the provisions are contained in the report to the Negotiating Council.

The report says that the PAC had submitted that the technical committee "ought to address the question of the print media in terms of the levelling of the playing fields" before elections.

The report added "The committee is of the view that it would be inappropriate to try to regulate the print media in the transitional period, since this would constitute an unwarranted infringement of freedom of expression.

"The reason why broadcast is treated differently is that the frequency spectrum is public property . . ."

# Build up on death row

(252)

W/Mail 28/5-3/6/93.

By ALEX DODD

THE three-year moratorium on hanging has led to a steady build-up of people facing death by the noose. A total of 292 people are currently on death row at Pretoria Central Prison — the longest-serving has been there five years.

Prisons liaison officer Linda Weppenaar stressed that some of the prisoners might not have exhausted all legal remedies, including appeal and clemency by the state president.

She could not say how many current death row prisoners would definitely hang if the death sentence was reinstated.

Weppenaar insisted "no overcrowding exists at Pretoria Central according to standards maintained by the department".

However, she did reveal that some single cells were occupied by as many as seven prisoners. There were 18 of these "communal cells" and 245 single cells.

Each cell had one toilet, but the prisoners shared the same ablution facilities.

"It costs the state R43 per day to care for each prisoner," said Weppenaar.

The gallows were moved in 1967 to the then newly constructed maximum security wing adjacent to Pretoria Central Prison. This wing is known among prisoners as "Beverley Hills".

The entire prison, which was constructed at the beginning of the century, had to refurbished and expanded in 1967 because "it lacked adequate sanitation and major structural problems had to be addressed", Weppenaar said.

# Goldstone to probe cause of violence

By PAUL STOBER (252)

AS the death toll on the east Rand rose above 60, the Goldstone Commission announced it would conduct an investigation into the current explosion of violence. W/Mail 28/5-3/6/93.

On Thursday morning, police had confirmed that four constables were among the dead. The fighting had also left 500 people homeless and 30 000 Katlehong residents without electricity after an electrical sub-station was bombed. Two railway stations have also been burnt down.

In a desperate attempt to calm the fighting, representatives of organisations, including the African National Congress, Inkatha Freedom Party and the South African Police, met the Wits-Vaal Peace Secretariat to discuss measures to control the situation.

The parties agreed to establish a joint operations centre at the Natalspruit Hospital to be staffed by members of the ANC, IFP, the security forces and peace monitors. They also recommended that townships affected not be declared unrest areas.

By Thursday morning, the measures, combined with persistent calls for peace by all parties, seemed to have had some effect. Peace monitors reported that some calm had returned to the east Rand.

The Goldstone Commission announced on Wednesday that it would hold a preliminary public inquiry into the causes of the violence at the request of the peace secretariat, the ANC and IFP.

The inquiry will focus on the ANC march which took place last Saturday. A key question the commission will try to answer is why the march was planned to pass in front of the Thokoza hostel. March leaders insisted on taking this route despite warnings by peace monitors and the police that hostel residents were massing outside the building. In the aftermath of the attack on the marchers, the ANC and IFP argued about whose supporters had attacked first before agreeing that it was the fault of the SAP for not preventing the fighting

On Wednesday, the SAP tried to disprove allegations made by the ANC and IFP that police had used force without trying to avert the fighting by showing video footage — recorded before the clash — of policemen and peace monitors negotiating with both ANC marshals and hostel residents

# Gruesome steps of 'death dance'

W/Mail 28/5 – 3/6/93.

252

By ALEX DODD

VUSI DLAMINI was given the task of cleaning death-row cells while he was a prisoner at Pretoria Central from 1975 to 1977

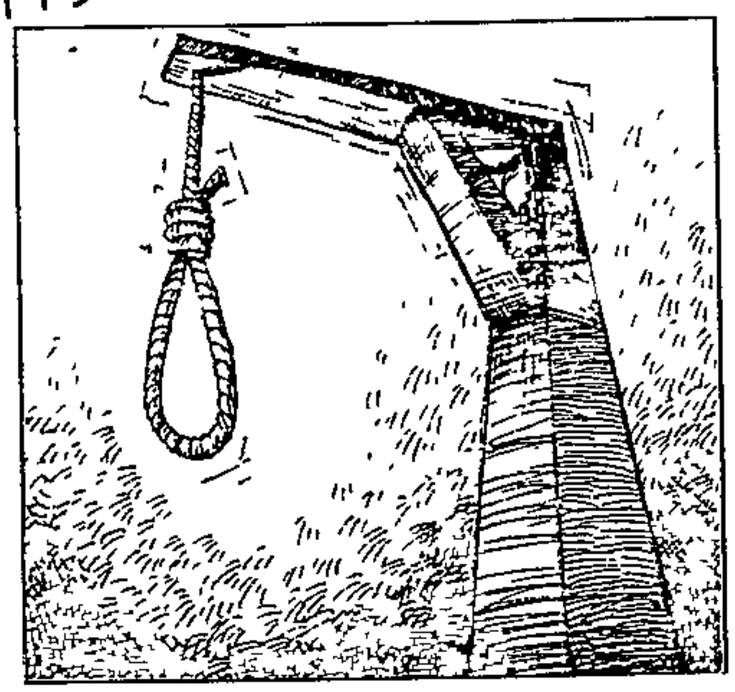
He recalls how he used to eat left-over pieces of chicken scavenged from the rubbish bins — but never on Tuesdays or Thursdays, because on those days the trashed chicken, which was on the menu of privileges for the condemned, was sometimes mixed with blood and excrement after the hangings.

Dlamini never witnessed a hanging, but he has the sequence pieced together in his head from other prisoners' stories, the sounds and his observations. His picture is echoed in Phyllis Naidoo's book, *Waiting to Die in Pretoria*, and fleshed out by Hugh Lewin in *Bandiet*. They describe how when a death-row inmate's time approached, he was transferred to a cell closer to the gallows. Five days before his execution, his weight and neck measurements were taken by the hangman so that the noose would be guaranteed to fit.

On the eve of hangings, warders removed shoes, clothing, mattresses and sheets from the cells of the condemned. At 3pm, they were offered specially prepared, deboned chicken for their last supper. They were also entitled to visits from family members.

Regulation dress for the condemned was a khaki shirt and long pants There were no buttons or laces, no tie and no belt — to ensure they had no means to end their lives before the state did Vests and underpants were removed so they couldn't tie these around their necks.

On the mornings the hangings took place, long before the sun rose, sirens began to wail from behind the koppie which flanked the prison, adding to the rising chants and hymns of inmates which always accompanied the condemned on



their way to the gallows.

First the condemned were taken to the prison chapel, where the chaplain prayed for them. Half an hour was allocated for this service but, if a prisoner was in a particularly distressed state, the prayers could be extended beyond the allotted time. "But the warders were anxious not to keep the hangman waiting and asked the condemned to 'finish off'," writes Naidoo.

The chaplain, whom Dlamini still refers to as "the pray-killer", did not accompany the prisoner to the gallows. He would wait at the bottom of the steps and, says Naidoo, after he was "advised that it went nicely", he reported to family members waiting outside.

The executions were witnessed by a host of officials, including a sheriff, two lieutenants, three chief warders, four head warders, five section warders, a commandant and a doctor

"These were people with ties," says Dlamini, recalling that he used to see many of the witnesses leaving the gallows and heading straight for the dining room and a full breakfast

Naidoo describes how, before being hanged, women were strapped up between the legs, "to cater for the bloody mess there'd be after the ordeal This preparation naturally frightens the hell out of you, and you start shrieking and lose all composure. They would then 'be forced' to straitjacket you."

Once in the gallows, the prisoner would step on to a black box and stand in front of the custom-made noose. His wrists were tied firmly, so that if he struggled the knot would not loosen. A hood was fastened over his head. The last thing he would probably hear was a loud clatter as the trap door in the black box opened and he dropped. The body usually twitched for a while, in what was known as the "death dance"

When all visible signs of life were absent, the body was taken down — usually about 20 minutes after the trap doors burst open — and was examined by a doctor, who would certify the person dead.

"When people die in hospital, the nurses plug all the openings. your mouth, ears, nose, anus and vagina. But this cannot be done with a person to be executed. After the execution, excretion begins immediately. So there is blood and puke on your legs and over the rope that is strung around your neck," says Naidoo.

"The rope used for blacks is rarely changed, so around your neck is the blood and puke of compatriots who have been executed before you."

The state claimed the body as state property, so families were not allowed to bury the bodies customarily.

Dlamini used to clean the cars that transported the bodies to the state-assigned graves. It was his duty to take the corpse bags from the cars to the prison laundry. Often "those khaki bags with black numbers on them were stained with blood".

# Goldstone to probe cause of violence

By PAUL STOBER (252)

AS the death toll on the east Rand rose above 60, the Goldstone Commission announced it would conduct an investigation into the current explosion of violence. W/Mail 28/5-3/6/93.

On Thursday morning, police had confirmed that four constables were among the dead. The fighting had also left 500 people homeless and 30 000 Katlehong residents without electricity after an electrical sub-station was bombed. Two railway stations have also been burnt down.

In a desperate attempt to calm the fighting, representatives of organisations, including the African National Congress, Inkatha Freedom Party and the South African Police, met the Wits-Vaal Peace Secretariat to discuss measures to control the situation.

The parties agreed to establish a joint operations centre at the Natalspruit Hospital to be staffed by members of the ANC, IFP, the security forces and peace monitors. They also recommended that townships affected not be declared unrest areas.

By Thursday morning, the measures, combined with persistent calls for peace by all parties, seemed to have had some effect. Peace monitors reported that some calm had returned to the east Rand.

The Goldstone Commission announced on Wednesday that it would hold a preliminary public inquiry into the causes of the violence at the request of the peace secretariat, the ANC and IFP.

The inquiry will focus on the ANC march which took place last Saturday. A key question the commission will try to answer is why the march was planned to pass in front of the Thokoza hostel. March leaders insisted on taking this route despite warnings by peace monitors and the police that hostel residents were massing outside the building. In the aftermath of the attack on the marchers, the ANC and IFP argued about whose supporters had attacked first before agreeing that it was the fault of the SAP for not preventing the fighting.

On Wednesday, the SAP tried to disprove allegations made by the ANC and IFP that police had used force without trying to avert the fighting by showing video footage — recorded before the clash — of policemen and peace monitors negotiating with both ANC marshals and hostel residents

REPUBLIC OF SOUTH AFRICA

REPUBLIEK VAN SUID-AFRIKA

# Government Gazette
# Staatskoerant

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## THE LAW SOCIETY OF THE TRANSVAAL

### AMENDMENT OF RULES

It is hereby notified that the following amendments to the Rules framed in terms of section 74 (1) of Act No. 53 of 1979 and which have been approved by the Chief Justice of South Africa in consultation with the Judge President of the Transvaal in terms of section 74 (2) of Act No. 53 of 1979, are promulgated by the Council of the Law Society of the Transvaal:

## PROKUREURSORDE VAN TRANSVAAL

### WYSIGING VAN REËLS

Hiermee word kennis gegee dat die volgende wysiging in die Reëls opgestel kragtens artikel 74 (1) van Wet No. 53 van 1979 en wat deur die Hoofregter van Suid-Afrika in oorleg met die Regter-president van Transvaal goedgekeur is ingevolge artikel 74 (2) van Wet No. 53 van 1979, deur die Raad van die Prokureursorde van Transvaal uitgevaardig word:

*Amendment of rule 81*

252

The following new rule is adopted in the place of the existing rule (underlined portions of the rule are new, and words in square brackets and in bold print have been deleted from the existing rule):

"***Attorney and client charges***

81.1.1 Subject to the provisions of rule **[s 81.3 and]** 81.5 a member to whom any claim of whatever nature is handed for collection may in addition to any professional fees (e.g. the charges for any proceedings in a court of law) charge reasonable attorney and client charges For the guidance of members the following attorney and client charges have been prescribed by the council as being reasonable attorney and client charges for purposes of this rule, but this shall not be construed as prohibiting a member from departing from the prescribed charges, either upwards or downwards, in appropriate circumstances.

81.1.1.1 (a) In the case of the member originally instructed before the granting of a judgment, and also in the case of every member who receives instructions thereafter but before the granting of a judgment, instruction charges of—

(i) R15 for claims of R1 to R1 500;

(ii) R30 for claims over R1 500 to R5 000;

(iii) R60 for claims over R5 000 to R10 000;

(iv) R100 for claims over R10 000.

(b) In the case of every successive member who receives instructions after the granting of a judgment, instruction charges of—

(i) R15 for claims of R1 to R1 500;

(ii) R30 for claims over R1 500.

(c) R10 for every necessary letter or telegram written or received and for each necessary attendance.

(d) R15 for every 10 minutes or part thereof of every necessary consultation with a debtor

81 1.1.2 Collection commission at the rate of 10% on the amount collected, subject to a recommended maximum amount of R200 for each payment or instalment, provided that where the member recovers commission from the debtor, either in terms of any law or in terms of a contractual obligation, he shall credit his client therewith to the extent of, but not exceeding the collection commission debited to his client. Collection commission covers all attendances and work done in connection with the receipt of a payment and accounting to a client in respect of a payment

81.1.2 The charges set out in rule 81 1.1.1 and 81.1.1.2 shall be made only in respect of professional services rendered in cases where no tariff is prescribed by any other law.

**[81.2 For the purposes of this rule the expression "amount collected" shall include any payment made by or on behalf of any debtor direct to the client, whether in cash or in kind, or by way of novation or set-off after the claim is handed to the member for collection.]**

**[81.3 Where the collection commission chargeable by a member in any one matter exceeds the amount of R250 he may, notwithstanding the provisions of rule 81.1.12, waive or reduce his collection commission charges to the extent that they exceed the amount of R250.]**

81 2.1 In the case of final recovery or repossession of movables in terms of a hire purchase agreement, a suspensive sale agreement, a lease or any other contract of a like nature, a member may, subject to the provisions of rule 81 2.3 in addition to any professional fees, charge collection commission, calculated in accordance with the provisions of rule **[s]** 81.1.1 2 **[and 81.3]** on the value of the movables so recovered or repossessed.

81.2 2 The value referred to in rule 81.2.1 shall be the value fixed on the movables by a court of law at a final judgment or the value fixed on the movables by an appraiser

81 2 3 Where the total unpaid amounts owing under the agreement are less than the value of the movables recovered or repossessed or no value has been fixed on such movables by the court or by an appraiser the collection commission shall be calculated on the total unpaid amounts and not on the value of the movables.

81.3 The council may make general rulings regarding the application of this rule and the circumstances under which and the extent to which members may deviate from the provisions of this rule. **[and**

**81.5.2 on written application from the member, but only in exceptional circumstances, authorise such member to deviate from the provisions of this rule;**

**provided that the council shall not authorise charges in excess of those prescribed in this rule.]**

81.4 Rules 81.1 to 81 3 are applicable to claims in respect of which a magistrate's court has jurisdiction."

*Amendment of rule 84:*

Delete all the words commencing with and following the words "provided that"

*Wysiging van reel 81*

Die volgende nuwe reel is aangeneem in die plek van die bestaande reël (die onderstreepte gedeeltes van die reel is nuut en woorde in blokhakies en in vetdruk is weggelaat uit die bestaande reel)

"***Prokureur- en kliëntgelde***

81 1.1 Behoudens die bepalings van reël **[s 81.3 en]** 81.5 mag 'n lid aan wie enige eis van watter aard ookal vir invordering oorhandig word, benewens professionele gelde (byvoorbeeld vorderings vir enige verrigtinge in 'n geregshof) ook redelike prokureur- en klientgelde vorder. As riglyn vir die lede is die volgende prokureur- en kliëntgelde deur die raad voorgestel as synde redelike prokureur- en klientgelde vir doeleindes van hierdie reel, maar 'n lid word nie verbied om in gepaste gevalle meer of minder as die voorgestelde gelde te vorder nie

# March a mistake – ANC

Star 29/5/93

JOHN PERLMAN
Chief Reporter

252

THE ANC has conceded it was "an error of judgment" to lead its supporters on a march past the hostel in Tokoza last Saturday, but says it does not thereby accept the blame for the violence that this incident has sparked across the East Rand.

Addressing a preliminary hearing of the Goldstone Commission in Pretoria yesterday, counsel for the ANC-SACP-COSATU alliance Azhar Cachalia said there had been no "sinister motive" for going past the hostel. The police warning that this might cause trouble, however, had not been treated "with the seriousness it deserved"

Paul Mashatile, secretary of the ANC's PWV region, said an error of judgment had been made. "But we are not saying that all the chaos that has since broken out in that area is our responsibility," he said.

The commission heard that the leader of the ANC's Tokoza branch, Mondli Gungubela, had been warned of potential problems at the hostel by the police.

"A prudent course of action would have been to proceed with the march if possible along another route," Cachalia said. The ANC accepted it was "understandable for the hostel dwellers to perceive themselves as under attack"

## Poorly organised

Mashatile said the ANC's submission to the hearing, which retracted earlier criticisms of police conduct, referred "specifically to what happened on Saturday But we are not saying that there are no problems with the police in regard to what has been happening since then. We believe there is a lot of misconduct going on.'

Cachalia said the ANC's PWV region had met with Nelson Mandela, who had advised them to make "full open and honest" submissions to the commission.

The ANC withdrew earlier allegations that policing of Tokoza was inadequate — saying these were based on "inaccurate information" — and conceded that the march was "poorly organised"

Cachalia said the ANC should have ensured that marchers were disarmed before leaving the stadium where they had assembled, and had failed to supply "anywhere near" the 1 000 marshals they had undertaken to provide. The ANC was now seriously assessing "the extent to which we give sub-regions the autonomy to run marches without the guidance" of the national leadership

While the ANC would "vigorously assert the right to gather and demonstrate", it accepted that there were "duties and responsibilities that go with that", in particular ensuring that marchers were not armed with dangerous weapons.

Following the hearing, the Tokoza Hostel Dwellers Association and the Inkatha Freedom Party undertook to "take appropriate steps to ensure that hostel dwellers are not in possession of illegal firearms'

The Commission commended the police for their "responsible and sensible" action on the day of the march and praised the parties for their "candour and objectivity" The Commission statement said mass demonstration was a fundamental right but it had to be "exercised in such a way as to avoid conflict"

# Parliament consults ANC on Bill

(252)

ARG 29/5/93

MARTIN CHALLENOR
Weekend Argus Political Staff

IN what is probably a first for parliament, the African National Congress has been officially listed as one of the groups consulted by the government on a Bill before it was tabled in the House

The Recognition of Foreign Legal Qualifications and Practice Bill recognises the overseas legal qualifications of South Africans who fled the country and their right to practice law here

A memorandum to the Bill said the Bench, the General Council of the Bar, the Association of Law Societies, the African National Congress, the Society of University Teachers of Law, the Black Lawyers' Association, the National Association of Democratic Lawyers and others were consulted

The Bill, tabled by Justice Minister Mr Kobie Coetsee, allows him to exempt legally trained exiles from some admission and qualification requirements of the Admission of Advocates Act of 1964 and the Attorneys Act of 1979

The minister can also exempt returning attorneys from a practical examination, serve as article clerks and attend training courses

The minister may, on the recommendation of a panel of experts, exempt returning legal exiles from the academic qualifications of B Proc and LL B as was prescribed in the legislation.

The exemptions will only be granted to South African citizens who left South Africa before February 1 1990, who had returned lawfully and permanently and who are proficient in at least English or Afrikaans

The Act has to be renewed by parliament in a year.

# ANC's Thokoza marchers get a lashing from Goldstone

S/Times 30/5/93

Sunday Times Reporter

THE Goldstone commission has pieced together what happened in Thokoza last Saturday, when at least 12 people were killed and scores injured during the ANC march

(252)

- The march, organised by the ANC alliance from Thokoza stadium to the Alberton city hall, failed to comply with its undertaking that there would be 1 000 marshals There were substantially fewer than that;
- There had been no reconsideration by the organisers of the desirability of marching past the Thokoza hostel, which was known to house many who would have strong objections to the march;
- When the march organisers were told there was hostility at the hostel, they did not consider alternative routes. That constituted an error of judgment;
- When the marchers reached the hostel a fracas broke out between some marchers and hostel-dwellers That was broken up by police with teargas, rubber bullets and birdshot. No injuries or deaths are known to have followed that action;
- A group fired into the hostel from behind it and out of sight of anyone involved in the march,
- Firearms were used in crossfire which then ensued from the hostel and from the marchers;
- Some of the marchers went to Khumalo bridge. At least five opened fire on the police with AK-47s. The police returned fire with live ammunition. There were no reports of deaths or injuries.

The ANC alliance conceded, the commission said, that its criticism of the police conduct was based on incorrect information.

"The alliance retracts the allegations it made on the basis of that misinformation," it said.

The Thokoza Hostel Dwellers' Association also regretted that firearms were used by hostel-dwellers. It undertook to ensure that hostel-dwellers were no longer in possession of illegal firearms.

# It was them or us — mutineer

By ZANELE VUTELA

C/Press 30/5/93

THE relationship between security guards and prisoners at Umkhonto weSizwe's Quatro camp in Angola were reduced to the level of "enemy agents against revolutionaries".

This is what a former MK mutineer this week told the Motsuenyane Commission of Inquiry into allegations of atrocities in ANC detention camps – which is sitting at the FNB stadium in Johannesburg.

(252)

Luthando Nicholas Dysop, who left SA in 1980 for military training, said the events leading up to his 1984 arrest began one morning when Fapla soldiers raided Vianna, an ANC camp near Luanda Someone called Babsy was killed during the raid

His group, who had been fighting Unita at the "Eastern Front", had been moved to Vianna following an earlier mutiny at Kandangula where 300 MK cadres had fired shots into the air, refusing to be disarmed by their commanders

Dysop said the Angolans were not aware that they had already left Vianna and were encircling them "Our guns were trained on them all the time and this proves that we did not aim to kill them."

As the day dawned brighter one Fapla soldier climbed on top of an Armoured Personnel Carrier (APC) and spotted five of them in a trench He alerted another soldier who approached them with a handgrenade, ordering them out.

They refused and the soldier began to prepare to throw the grenade, at which point, according to Dysop, "it was either them or us".

He fired at the APC with an RPG 7, hoping the sound would scare them. The others supported him by firing into the air and the Angolans ran back into the camp.

Dysop said later, with the Angolans as mediators, his group agreed to be disarmed and were taken to Pango But he knew ANC Security would catch up with him as they had arrested the wrong person for firing at the APC.

They came one day and tried to trick him into leaving with them by saying that he was going to Caxito to prepare for infiltration into SA.

He first refused, but was eventually convinced that he was going to Caxito. Instead he was taken to Quatro where he was punched until he lost consciousness. He was given a lice-ridden uniform and put in isolation for two months.

In January 1985 he was recovering from malaria when the officer on duty told him that his days of "treatment" (hard work and beatings) were over.

He was released on November 16 1988 and sent to Dakawa in Tanzania. He came home in 1990 and tried unsuccessfully to meet the ANC leadership.

Dysop said his group returned home with the help of the SA embassy and formed a committee, the Returned Exiles Co-ordinating Committee, which was not associated with controversial ANC dissident Pat Hlongwane.

The hearing continues tomorrow.

# Non-members in labour council net

S/Times (Buss) (252)

30/5/93

By ZILLA EFRAT

THE right of industrial councils to extend wage and labour agreements to non-members has been reaffirmed in what is considered a watershed judgment.

The Cape Supreme Court has granted the National Industrial Council for the Iron, Steel, Engineering and Metallurgical Industries (NICISEMI) — South Africa's largest industrial council — an order compelling 12 employers to comply with its agreements.

The 12 refused to contribute to the industry's pension, provident and education and training funds on behalf of their employees.

They also launched counter-applications against the industrial council, alleging defects in its registration, misinterpretations of the Labour Relations Act and lack of representatives of employers on the council.

NICISEMI says the Supreme Court rejected the opposing applications on all counts.

It ordered the main respondent, Photocircuit, to pay all costs. The counter-applications were also dismissed with costs.

In addition, Horst Pewschkes of Photocircuit gave the court a written undertaking that he would refrain from inciting or encouraging other people to refuse to comply with the industrial council agreements.

NICISEMI says the judgment has been welcomed by the engineering industry because it confirms the council's important role in regulating the industry collectively through agreements negotiated between employer organisations and and trade unions.

Council general secretary David Levy says he is satisfied that the Supreme Court fully countered the claims against the council.

He hopes the judgment will encourage a more balanced perspective of industrial councils' important role.

C/Press 30/5/93

# Judge hits at

(252)

ANC alliance organisers had given little consideration to the desirability of marching past the Thokoza hostel on the East Rand, according to a preliminary inquiry by the Goldstone Commission.

In a report on the violence which erupted at Thokoza last Saturday, costing 14 lives, Judge Richard Goldstone said marshals should have known hostel inmates would be averse to an ANC march nearby

The march had also failed to comply with an undertaking given to the local authority and chief magistrate that there would be 1 000 marshals There were substantially fewer present

Goldstone said a "fracas" had broken out between a small group of marchers and hostel dwellers at the same time as a 10-member group fired at the hostel Firearms were used in crossfire which then ensued from within the hostel and from the group of marchers, he added

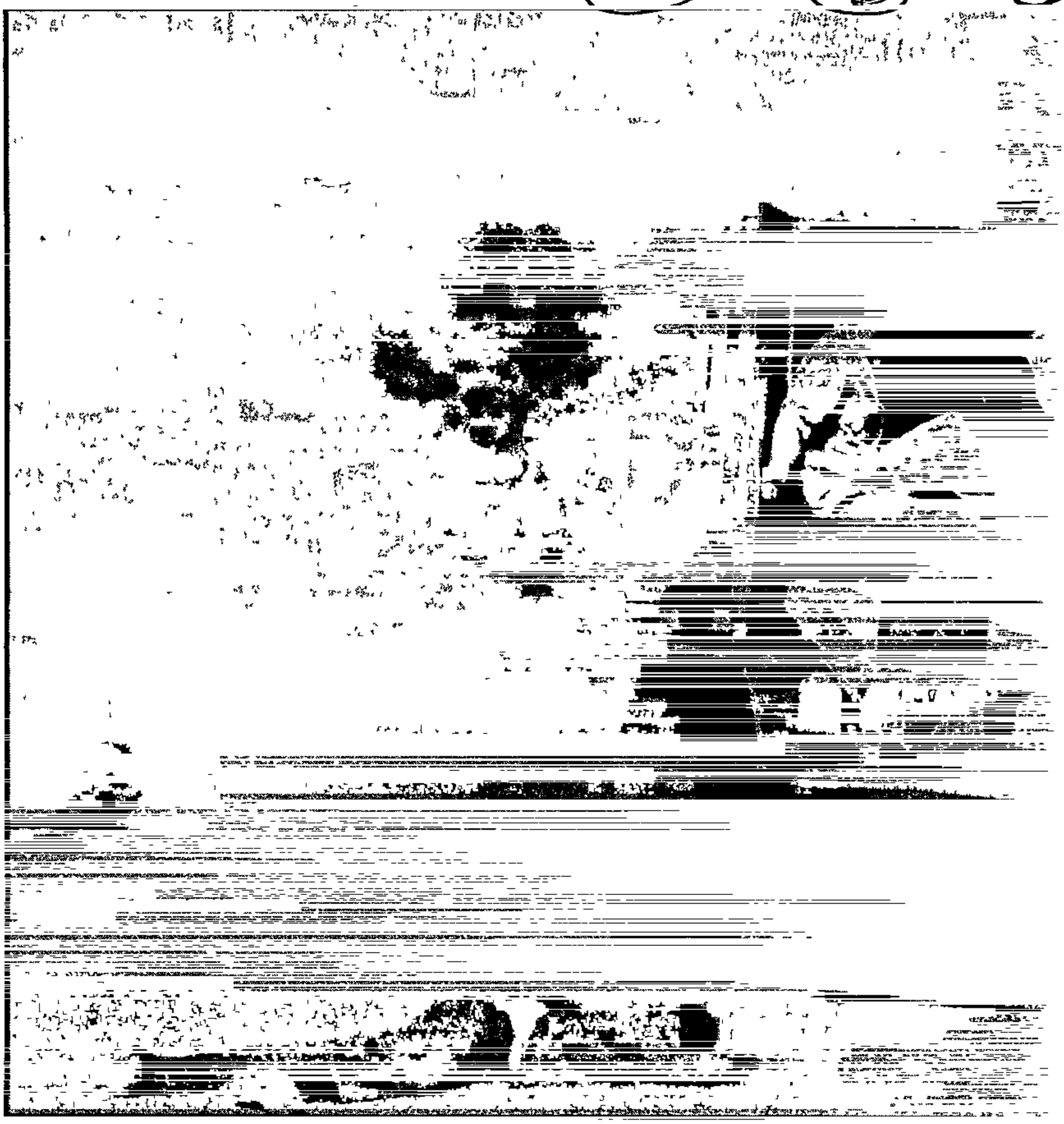
At least five people began firing at police with AK47s and the police returned fire with live ammunition There were no reports of deaths or injuries from this incident, he said

The ANC conceded the attacks made by some of their spokesmen on police conduct that day "was based on incorrect information", the report said

The report said the Thokoza Hostel Dwellers Association regretted firearms had been used by residents against the marchers and undertook to take appropriate steps to ensure that hostel dwellers were not in possession of illegal firearms Inkatha fully supported that undertaking, Goldstone said

The Commission expressed appreciation of the responsible and sensitive manner in which the SAP's officers and members, particularly a Capt Pieterse of the Internal Stability Unit, behaved on the day of the march

ANC president Nelson Mandela was also commended for playing a personal role in evaluating the events



**THOKOZA ... Death and mayhem struck the war-ridden East Rand township this week.** ■ Pics: THULANI SITHOLE and ANDRIES MCINEKA

Police Counsel at the Commission, Luther Wepener, said the first shots during the confrontation had been fired by a group of about 10 people who had taken position behind the hostel before opening fire on hostel dwellers

The ANC Youth League organisers of the march should be held accountable for the massacre, he said

Goldstone said earlier that the Commission would determine what further inquiries, if any, were required to enable it to make recommendations on steps which should be taken to avoid further such occurrences.

National Peace Committee chairman John Hall said on Friday that the ANC's Thabo Mbeki had admitted to him that the organisation was to blame for allowing thugs to take over the march and to redirect it through a potentially dangerous area

■ Four troubled East Rand townships were declared unrest areas on Friday by Law and Order Minister Hernus Kriel.

They are Thokoza, Katlehong, Vosloorus and Thembisa

A 9 pm to 4 am curfew has been put into force, forbidding anyone from being beyond the limits of residential sites

People with employer's letters showing proof of their identity, their full personal and business details and the nature of their work, "together with an exposition of the working and travel times" may be exempt from the curfew.

■ Police liaison officer Capt Ida van Zweel has confirmed shots were fired at passenger aircraft passing over Thembisa on Thursday

Citizen 30/5/93

# hits at ANC

(278)

struck the war-ridden East Rand

...ssi THULANI SITHOLE and ANDRIES MCINEKA

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■ Police liaison officer Capt Ida van Zweel has confirmed shots were fired at passenger aircraft passing over Thembisa on Thursday

# Couple's dream house 'expensive nightmare'

252

By CIARA CARTER

A NEWLY-WED Cape Town man's dream of becoming a homeowner has turned into a nightmare of broken promises at the cost of thousands of rands

Nine months after he paid a deposit to a local development company, Innovation Designs, Mr Lesley Johnson, 21, of Kensington is still waiting to see a single brick of his dream house go up on the plot he "bought" in Maitland

This week a Cape Town attorney who was handling the transfer of the land to Innovation Design, confirmed that they did not own the land and have been summonsed for payment of the outstanding purchase price

Mr Johnson says he concluded a written agreement of sale with Innovation Designs in August last year for the plot He also entered a separate agreement in which the company agreed to build a house according to an agreed plan

The house was to be one of six to be built on a sub-divided plot of land purchased by Innovation Designs

Mr Johnson, who received approval for a bond from the NBS, says he paid Innovation Designs R12 244 in August last year as a deposit on the total purchase price of R96 050 He says he was promised occupation by December last year

In February this year, the company informed Mr Johnson that building had been delayed as a result of a delay in subdivision — but promised the house would be built by the end of April this year

According to the Johnson family, who have now sought legal assistance, the company has refused to refund the deposit and has not responded to their repeated inquiries

## 'Very simple'

Mrs Val Titto of Innovation Design acknowledged there had been a delay in the project, but said the Johnsons "did not understand the process involved"

She said the reason for the delay was "very simple" and could be traced to a delay in sub-division which was to take place before the company took transfer from the original owner

Mrs Titto said until the company took transfer, they could neither begin building nor transfer the plot to Mr Johnson

She said the company had written to the Johnson's attorney this month informing him that construction would probably begin in July this year

However, the attorney dealing with the transfer of the property — who does not want to be named — from the original owner said transfer had been up for registration "several times"

He said Mrs Titto had not paid the full purchase price for the property and he had issued summons for payment

HOUSE HORROR . . . Mr Lesley Johnson at the spot where his dream house should have been built Picture.JACK LESTRADE

Star 31/5/93

# 911 inquests, 11 prosecuted

Some 911 inquests into deaths from political violence in the Natal Midlands had resulted in 11 prosecutions, Minister of Justice Kobie Coetsee said last week In a written reply to Wessel Nel (DP Mooi River) he said that in 590 of the inquests, death was attributed to persons unknown There had been 745 inquests in the Maritzburg magisterial district, 39 in Glencoe, 53 in Howick and 74 in Estcourt. — Sapa (262)

Star 21/5/93

# ANC probes death of 'Govt spy'

252

The ANC is investigating the "strange circumstances" surrounding the death in April of Solly Smith, the former chairman of the ANC's northern Free State branch and allegedly a Government spy.

ANC spokesman Carl Niehaus said yesterday that Smith had admitted to the ANC that he had been "compromised into working for Military Intelligence (MI)"

"He was fearing for his life at the time, believing the State's security forces would target him if they found out about the confession," Niehaus said.

Smith's body was found at his home in Onderdaalsrus near Welkom. A State pathologist's report listed the cause of death as cardio-respiratory failure. His family told a Sunday newspaper he died of natural causes.

The newspaper reported yesterday that the ANC was also looking into the death of Dr Francis Meli, who edited the ANC's mouthpiece, Sechaba while exiled in London.

Meli was also alleged to be an MI informant. He died in Johannesburg in October 1990, apparently of heart failure after a drinking binge.

According to the newspaper, the ANC believes both men may have died of poisoning to prevent them from revealing what they knew about the activities of MI — Staff Reporter.

Buss. Day 11/6/93

## Probes number 28

THE Goldstone commission has set up a total of 28 probes into violence since its establishment in October 1991 The two latest committees, launched last week, will look into intimidation of teachers and violence in Thokoza (252)

The committee considering intimidation of teachers at black schools agreed to approach the national education forum for finalisation of its terms of reference

Star 11/6/93

# Panel experts named for election inquiry

The Goldstone Commission, which will hold an inquiry in August into ways and means of curbing public violence and intimidation in the forthcoming election, has announced the names of a panel of experts selected to advise it. (252)

They are leading United States attorney Charles Ruff, HSRC Centre for Conflict Analysis director Dr Johan Olivier; Police Board member Professor Clifford Shearing; policing expert Professor T Geldenhuys of Unisa, University of Zululand professor Otty Nxumalo — an observer at the recent Zambian elections, Dren Nupen of the Independent Mediation Service of SA who has wide experience in local trade union and community elections, Transvaal Law Society president Igna Klynsmith; Canada's deputy chief electoral officer Professor Ron Gould, Zimbabwe Electoral Commission chairman Professor Walter Kamba; Professor J Elklit of Denmark who has observed elections in Nepal, Bulgaria and Kenya, and ambassador T Stiggner Scott of Ghana, a former High Court Judge in Zimbabwe and Ghana's Ambassador to France. — Staff Reporter.

Adv C H PIENAAR Mr Chairman, could I ask the virgin hon Minister, arising out of his reply, whether the Government intends taking control of housing or whether it merely intends to co-ordinate it? Could he tell us what the Government's intentions are at this stage?

The MINISTER Mr Chairman, the intention is to achieve co-ordination, but this has to be done in the light of changing circumstances It is not a question of taking control at all, however There must be a large amount of autonomy in various areas.

Adv C H PIENAAR Mr Chairman, further arising out of the hon the Minister's reply, is he saying, in other words, that despite the fact that the bulk of the funds would be emanating from the taxpayers, there will not be any control over the way in which those funds are spent?

The MINISTER Mr Chairman, I think, in terms of the reply that I gave initially, that such a detailed request should be tabled so that I can reply adequately in due course [Interjections ]

**SADF vehicles: transportation of passengers**

*3 Mr D H M GIBSON asked the Minister of Defence:

Whether any South African Defence Force regulations and/or other provisions provide for safety checks to be carried out on military vehicles used for the transportation of persons on public roads, if not, why not, if so, (a) which regulations and/or provisions and (b) (i) when, (ii) by whom and (iii) according to what procedures are such safety checks carried out? B847E

†The DEPUTY MINISTER OF DEFENCE

Yes

(a) SADF Logistics Policy and Procedures 14, Pamphlet 1, part 3 SADF Policy and Procedures for the Planning and Execution of Logistics read in conjunction with the Military Disciplinary Code, Section 19, "Disobeying Lawful Commands or Orders"

(b) (i) Before each trip

(ii) The driver

(iii) The prescribed procedures for First Parade, which comprises a complete check of the vehicle using a prescribed checklist

**Samil vehicles transporting school cadets**

*4 Mr A J LEON asked the Minister of Defence:

(1) Whether it is common practice to use Samil military vehicles for the transportation of school cadets; if so,

(2) whether these vehicles comply with the relevant safety and other requirements for the transportation of passengers on public roads; if not, why not; if so, what is the maximum speed at which passengers may be transported on such roads;

(3) whether any specific regulations and/or rules are applicable in respect of the use of Samil vehicles; if so, what regulations and/or rules;

(4) whether such regulations and/or rules differ from those applicable to other vehicles, if so, what are the relevant details? B849E

†The DEPUTY MINISTER OF DEFENCE

(1) Yes.

(2) Yes 80 km per hour

(3) No

(4) Falls away

**Transportation of school cadets**

*5 Mr E K MOORCROFT asked the Minister of Defence:

Whether any specific regulations and/or rules apply to the (a) transportation of school cadets and (b) loading of equipment in military vehicles, if not, why not, if so, (i) what regulations and/or rules in each case, (ii) under whose command do such vehicles fall when transporting school cadets and (iii) who is responsible for ensuring that such regulations and/or rules are complied with? B851E

†The DEPUTY MINISTER OF DEFENCE

(a) and (b) All SA Defence Force vehicles are subject to the same regulations and prescriptions

(i) SADF Logistics Policy and Procedures 14, Pamphlet 1, Part 3, Chapter 5 (Road Transport in the SADF) and Army Training Instruction 2/91 with regard to the loading of equipment and the Loading Tables in respect of personnel read in conjunction with the Military Disciplinary Code, Section 19, "Disobeying Lawful Commands or Orders"

(ii) It differs depending on the specific circumstances

(iii) The driver and/or the non-commissioned officer or member of a higher rank who has been appointed for the specific task

**Black Education: capital programme**

*6 Mr R M BURROWS asked the Minister of Education and Training.

(1) Whether, with reference to certain information furnished to the Minister's Department for the purpose of his reply, the major capital programme in respect of Black education recently announced by him applies only to areas falling under his Department; if so, why; if not,

(2) whether any funds allocated in terms of the said programme will be spent in the self-governing territories; if not, why not, if so, (a) in which territories, (b) what total amount will be so spent and (c) in respect of what date is this information furnished? B880E

The MINISTER OF EDUCATION AND TRAINING·

(1) Yes The Department of Education and Training has no jurisdiction over the provision of education in a self-governing territory Therefore the budget voted for the Department of Education and Training may only be spent in the Republic of South Africa, excluding the self-governing territories.

(2) Falls away

**Guardian's Fund: minor heirs**

*7 Mr J CHIOLÉ asked the Minister of Justice †

(1) Whether, with specific reference to information on minor heirs who have come of age in the mean time, the full particulars regarding the amounts of R100 or more that were claimable in the books of the Guardian's Fund Transvaal Provincial Division as at 31 August 1992, were published by Notice 884 in the *Gazette*, No 14329, on 9 October 1992, in accordance with the provisions of section 91 of the Administration of Estates Act, 1965 (Act No 66 of 1965), if not, (a) why not and (b) when will the full information in this regard be published in the *Gazette*;

(2) whether he or his Department intends taking steps in this regard, if not, why not; if so, (a) what steps and (b) against whom? B593E

†The MINISTER OF CORRECTIONAL SERVICES (for the Minister of Justice)

(1) No The Master, Pretoria, reports to me that three names were omitted from the published list for 31 August 1992 I have asked the Master to ensure that there are no other omissions and to report to me on measures taken to avoid a recurrence of such omissions and oversights I thank the hon member for bringing the matter to my attention

(2) Steps are being taken to notify the persons concerned The information will be published in the *Gazette* on Friday 4 June 1993

INTERPELLATION

The sign * indicates a translation The sign †, used subsequently in the same interpellation, indicates the original language

*Own Affairs*

**Model A and C schools: admission**

*1 Mr A GERBER asked the Minister of Education and Culture

(1) Whether governing bodies of Model A and C schools have the right to deny any persons admission to such schools on the grounds of language, cultural and/or religious considerations, if not, why not, if so, why,

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

B895E INT

cont

wanted the parents to become more involved years ago This campaign has caused that to happen

If Sadtu takes a decision in Pretoria and gives an undertaking, and its members in the Western Cape pay no attention, surely it is not the fault of the Minister and the department if a rebellion takes place in Sadtu and there is no control Is it my fault or that of the department if there is a power struggle, which has nothing to do with education or with what the department is doing, among teachers' associations outside? [Interjections ] [Time expired.]

Debate concluded





***HOUSE OF DELEGATES***

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QUESTIONS

†Indicates translated version

*For oral reply*

*General Affairs*

**Cost of government**

*1 Mr M F CASSIM asked the Minister of State Expenditure·

(1) Whether, with reference to the alleged stated goal of the Government to achieve greater economics of scale and rationalization within government, the cost of government to the nation has increased in real terms, if not, what is the position in this regard, if so, to what extent,

(2) whether he will make a statement on the matter? B273E

The MINISTER OF STATE EXPENDITURE·

(1) No The cost of government refers to more than that of central government It encompasses that of the general government, i e central, provincial and local government (including TBVC states and self-governing territories) According to the latest information of the Central Statistical Service (PO441) the change in real terms in expenditure for the general government over the past five quarters was as follows:

| | | |
|---|---|---|
| 1992 | 1 | 0,2 % |
| | 2 | 0,1 % |
| | 3 | 0,0 % |
| | 4 | −0,3 % |
| 1993 | 1 | −0,4 % |

(2) No

Mr M F CASSIM Mr Chairman, arising out of the hon the Minister's reply, are we then to assume that there is positive saving on the part of the Government?

The MINISTER Mr Chairman, on the face of it, that would seem to be the case I shall pursue the point the hon member has raised, and try to give him a more substantial reply In the meantime, may I refer him to the bulletin of the Central Statistical Service, PO441, of which I shall enclose a copy when I reply to him

Mr A RAJBANSI Mr Chairman, the hon the Minister referred to the governments of the TBVC and other states Further arising out of his reply, is it not correct that anyone who wants to argue in favour of dismantling own affairs as part of the rationalisation programme should also ask, amongst other things, for the dismantling of the KwaZulu government?

The MINISTER Mr Chairman, I take it that the hon member does not want to initiate a debate on this right now However, I will consider what he has said, because a debate on this issue is necessary The trend of saving and reducing expenditure shows that we are moving in a positive direction

**Death at Pollsmoor: inquest**

*2 Mr M RAJAB asked the Minister of Justice

(1) Whether an inquest has been conducted into the death of a certain person, whose name has been furnished to the Minister's Department for the purpose of his reply, in Pollsmoor Prison on or about 29 June 1989; if not, why not, if so, by whom,

(2) whether any findings have been made in respect of the conduct of prison staff allegedly involved in the incident resulting in the death of the above-mentioned person, if so, what were the findings,

(3) whether a report on the inquest has been handed to the Attorney-General of the Cape, if not, why not; if so, when,

(4) whether the Attorney-General has taken any decision as a result of the findings contained in this report, if not, why not, if so, what was the decision,

(5) whether he will make a statement on the matter? D278E

The MINISTER OF JUSTICE

(1) Yes, it was conducted by a magistrate of the Magistrate's Court, Wynberg

(2) Yes, he found that the death was not brought about by any act or omission in-

cont→

volving or amounting to an offence on the part of any person

(3), (4) and (5) Yes, on 15 January 1993 In this regard cognizance has to be taken of the provisions of sections 17 and 21 of the Inquests Act, 1959 (Act 58 of 1959), which enables an attorney-general to, after considering the record of the proceedings, request the re-opening of the inquest or to institute criminal proceedings if he is of the opinion that it should be done

No decision has been made as the Attorney-General is awaiting representations from the legal representatives of the deceased's mother

**Crime prevention unit at Chatsworth**

*3 Mr A RAJBANSI asked the Minister of Law and Order:

(1) Whether any arrests have been made by the crime prevention unit at Chatsworth since the so-called A Team unit was disbanded, if not, why not, if so, how many,

(2) whether, since the disbandment of the above-mentioned unit, any Mandrax tablets have been seized in the area concerned, if so, how many? D280E

The MINISTER OF LAW AND ORDER

(1) Yes, 235

(2) Yes, 731

Mr A RAJBANSI Mr Chairman, arising out of the hon the Minister's reply, is he prepared to give us comparative data in respect of the efficiency of the present restructured crime unit and the performance of the A Team?

The MINISTER Mr Chairman, if that question is placed on the Question Paper, I will gladly do so Permit me to say that considering what the hon member said at the World Trade Centre on Thursday evening, I wish he was as concerned about the deaths of people murdered by Apla as he is about this particular issue

Mr A RAJBANSI Mr Chairman, on a point of order That is an unrelated matter If the hon the Minister has guts here, he should also have guts at the World Trade Centre

The MINISTER I had guts at the World Trade Centre

Mr A RAJBANSI The hon the Minister was chicken at the World Trade Centre He should not raise this issue here.

The MINISTER. Why not?

Mr A RAJBANSI· We are talking about Chatsworth

**Flights on 7 May: customs and excise duties**

*4 Mr A RAJBANSI asked the Minister of Finance

Whether any passengers who arrived at Louis Botha Airport, Durban, on 7 May 1993 on flights of two airlines, the names of which have been furnished to the Minister's Department for the purpose of his reply, paid any customs and excise duties; if not, why not; if so, what are the relevant details? D284E

The DEPUTY MINISTER OF FINANCE.

Yes

(a) Air Mauritius—30 passengers paid customs duty amounting to R64 838,00 on goods exceeding their duty-free allowances

(b) British Airways No duty was collected from passengers as none of the passengers had goods in excess of their duty-free allowances

Mr A RAJBANSI Mr Chairman, arising out of the hon the Deputy Minister's reply, before I ask my question I wish to say that the hon the Deputy Minister is an excellent person He is not arrogant [Interjections ] In view of the fact that on the same day, according to the answer given by the hon the Deputy Minister, R64 000 in duties was collected from passengers on Air Mauritius and nothing from those on British Airways, is the hon the Deputy Minister prepared to say whether the passengers on Air Mauritius were treated more harshly than those on British Airways?

The DEPUTY MINISTER Mr Chairman, it is difficult to answer yes or no As I have explained, I received a delegation led by the hon member in my office We have discussed the whole perception of the problems which exist there. The Commissioner for Customs and Excise was also present and we took decisions on various matters

Firstly, we decided that a press statement would be prepared by the commissioner for publication This statement will deal with requirements and restrictions in respect of the clearance of imported goods by returning residents It is anticipated that a better knowledge of the do's and don'ts will go a long way towards removing misunderstandings between customs and the public The public is also being made aware of the fact that officers are required to wear name plates, so that offenders may be identified That is the first step

Secondly, the commissioner reissued an instruction that all officers who interact with the public should wear name tags in future. That is an important step

Thirdly, the commissioner and I will visit Durban I am sorry that it will not be possible for me to spend a whole day there during this parliamentary session, since I have many duties regarding legislation However, I shall be visiting Durban During that time I intend to visit the airport for an *in loco* inspection, and I shall inform the hon member of my visit

**Public Service: merit awards**

*5. Mr M RAJAB asked the Minister of Education and Training (Minister responsible for the Commission for Administration)

Whether the Commission for Administration administers a system of merit awards for all members of the public service, if not, why not, if so, what are the relevant details? D291E

The MINISTER OF EDUCATION AND TRAINING (Minister responsible for the Commission for Administration)

No The various departments mentioned in the Public Service Act, 1984, themselves administer certain prescribed systems with regard to merit awards in the case of members of the Public Service

*Own Affairs*

**Funds for housing: insurance company**

*1 Mr M F CASSIM asked the Minister of Housing

(1) Whether his Department recently obtained funds for housing programmes through a certain insurance company, the name of which has been furnished to the Minister's Department for the purpose of his reply, below the market interest rate, if not, what is the position in this regard; if so, (a) when, (b) what is the name of the company in question, (c) what amount and (d) under what conditions,

(2) whether he will make a statement on the matter? D261E

The MINISTER OF HOUSING

(1) No As far as could be ascertained, the former Financial Consultant had exploratory discussions with an Insurance Company However, it appears that no tangible results were derived therefrom

(a), (b) (c) and (d) fall away

(2) No

Mr M F CASSIM· Mr Chairman, arising out of the hon the Minister's reply, is he aware that this particular insurance company has advertised its intention to make available vast sums of money for housing at an interest rate of 10%?

The MINISTER Mr Chairman, for the information of the hon member Mr M F Cassim, such monies are not loaned by this Administration Local authorities have to apply for such loans Their applications have to be made in consultation with the administrator in charge of local authorities In turn, the administrator concerned has to consult with Treasury to ascertain whether such loans can be serviced

Mr M F CASSIM Mr Chairman, further arising out of the hon the Minister's reply, why can the necessary machinery not be put in place to explore all the possibilities for obtaining this much needed funding for social upliftment in the country?

The MINISTER Mr Chairman, I have stated on many occasions in this House that we must naturally explore every possible way of ensuring the upliftment of the underprivileged community, particularly with regard to housing, welfare, etcetera Money is required

In any event, with the restructuring of the Administration, there has to be a new scenario A

Cont D.

Cind Crawford . . . told husband Richard Gere: "My body is my business."

the shots for the calendar, to be issued in November. — Star Bureau.

# Board to probe security force offences mooted

Star · 2/6/93

Political Staff

CAPE TOWN — All serious offences by soldiers and police will be investigated by a board of inquiry headed by a judge if far-reaching legislation tabled in Parliament yesterday becomes law.

The Security Forces Board of Inquiry Bill proposes to remove one of the most controversial features of law and order — police and army investigating crimes within their own ranks.

By establishing a board of inquiry, the Government is seeking to establish an independent and impartial body to investigate serious offences committed by security forces "in an expedient and unprejudiced manner".

The Bill provides for a board of inquiry chaired by a judge, with a chief executive officer, who must be an attorney-general or experienced lawyer; and area directors for regions, who must be experienced lawyers.

## Powers

(252)

Area directors will be responsible for conducting inquiries and will then report to the chairman and chief executive officer.

The board may request further inquiry, or refer the matter to the SAP or Military Police "for disposal".

The board itself may conduct an investigation with the same powers as a commission.

Only serious crimes and attempts at such crimes would be investigated.

These include murder, kidnapping, serious assault on people in custody, defeating the ends of justice and corruption

The board may investigate any member of the security forces, and may use experienced magistrates, prosecutors, police investigators "or other competent persons" as investigators.

As soon as the board began an investigation, the police or military police would halt any inquiry of its own.

On completion of an inquiry, the board would submit a report to the State President, who may publish its contents or table it in Parliament.

# Violence: council to probe media role

Buss. day 2/6/93

ADRIAN HADLAND

PRETORIA — The Press Council has been requested by the Goldstone commission to investigate the role of the media in the incitement and perpetuation of violence.

Following hearings last week into the ill-fated Thokoza march of May 22, in which 13 people died, the commission resolved to lay a formal complaint with the Press Council concerning the local Press coverage of the incident.

Press Council registrar Ed Linington confirmed that a request for an investigation had been received from the Goldstone commission yesterday.

A commission spokesman referred to the first Goldstone investigation into violence at Thokoza, completed in November last year, in which the media was urged to be "conscious of the fact that they are the disseminators of information which is frequently the trigger for violence"

The media, along with political leaders, bore a heavy responsibility in this regard, the report said

The publication of "false rumours" and unsubstantiated allegations had contributed to the deterioration of community relations and had led to further outbreaks of violence, the commission found

The commission recommended that criminal sanction be imposed on those members of the media who were found to have deliberately engaged in publicising potentially harmful rumours

It was believed by participants at the Thokoza hearing last week that the media had once again assumed a contributory function in the violence.

This was reflected in the last paragraph of the commission's recent Thokoza statement in which the council was "requested to investigate the reporting by the media in SA of the events which took place in Thokoza"

The council was asked to report its findings to the commission as soon as possible.

A recommendation on November 17 1992 that a Goldstone committee be created to look into the media and its impact on violence and intimidation had been ignored by the industry, a commission spokesman said.

"I am not aware of any submissions in this regard," he said.

Linington said specific complaints about incidents or articles needed to be passed on to the council for consideration.

If these fell within the ambit of the council, and possible breaches of its code of conduct existed, the matter would be taken up with the newspapers concerned, he said.

The Goldstone commission spokesman said further details, and copies of offending articles, would be submitted to the council as soon as possible.

"While the commission abhors the idea of censorship, the media must be conscious of its responsibilities," he said.

# Family bill makes marital rape illegal

By BARRY TREEK
Political Staff

THE government has backed down on marital immunity against rape — and has explicitly proposed in a new bill that husbands can indeed be found guilty of raping their wives

It has also made it an obligation for anyone who has reason to suspect that a child has been ill-treated to report the suspicion "as soon as possible" to the police.

The tougher new provisions against family violence have been incorporated in the Prevention of Family Violence Bill, which was tabled in Parliament yesterday

The government's original proposals on family violence — released in February this year as one of the three bills dealing with women's rights — were strongly criticised by women's groups and the Democratic Party for not going far enough

The DP's Women's Forum said then that the original proposal to provide marital immunity against rape was a relic of an era when wives were equivalent to goods and chattels, and had to be abolished

The new bill says that despite anything to the contrary in any law or in common law, "a husband may be convicted of the rape of his wife", but prosecution can only be instituted with the written authority of the attorney-general

The legal obligation on people to report the suspected ill-treatment of a child to a police official could be controversial

A spokesman of the Ministry of Justice, Mr Werner Krul, said last night there would be no exceptions, "not even for priests, doctors and lawyers"

The law would not oblige anyone to make a formal statement or to testify on the basis of information given to them in confidence

"The idea is just to give the police a lead, to tell them where to look," Mr Krul said

The government said in a memorandum attached to the bill that acts of violence within the family were increasing among all communities

(252) CT 3/6/93

# Bill opens choices for law graduates

(252)

CT 3/6/93

JOHANNESBURG — There were too few opportunities for the number of potential candidate attorneys to be trained professionally and a bill would soon be tabled in Parliament to provide alternate ways for law graduates to enter the profession, Deputy Minister of Justice Mrs Sheila Camerer said yesterday

In an address to a seminar presented by the Johannesburg Attorneys' Association and the Transvaal Law Society, she said in terms of the bill graduates might enter the profession in the following five ways

- Attendance for at least four months at the Association of Law Society's Law School, plus one year of articles
- Attendance at the Law School for at least four months plus one year of community service at an approved institution
- One year of articles plus one year of community service.
- Two years of community service
- Five years of experience in an appropriate related legal practice. — Sapa

# STOMPIE:

Sowetan 3/6/93

# Winnie fined

(52)

AN ecstatic Mrs Winnie Mandela remained holed up with family and friends in her Braamfontein Johannesburg, office yesterday after hearing she will not have to serve a six-year jail term

'She is ecstatic very happy," said family friend Mr Yusuf Asmal

Mrs Mandela declined to comment immediately on the judgment, saying she was waiting for word from her lawyers

Mrs Mandela, estranged wife of ANC president Mr Nelson Mandela, was convicted on a charge of kidnapping

Besides the R15 000 fine she must pay for the kidnapping of Stompie Seipei (14), Mr Kenneth Kgase Mr Thabiso Mono and Mr Gabriel Pelo Mekgwe she must pay each of the surviving complainants compensation of R5 000

The compensation is to be paid to the registrar of the Rand Supreme Court within 30 days

Her appeal against the four counts of kidnapping was dismissed but her six-year jail sentence was commuted to the R15 000 fine

Mr Mandela said yesterday he was happy his estranged wife was not going to jail

Nevertheless, he said after an engagement at a school in Athlone Cape Town, he would have to study the full text of the judgment before commenting further

"I am happy my estranged wife will not go to jail To make an informed response I must study the document carefully " he said

The appeal of Mrs Mandela s co-accused, John Morgan, against his conviction on the four counts of kidnapping was dismissed as was Xoliswa Falati's conviction on the same counts

Falati s effective imprisonment of six years was set aside and four years substituted, of which two years was conditionally suspended

Mandela hugs her daugther Zinzi after hearing her jail sentence was suspended. PIC AP



Sowetan 3/6/93

# Reaction to verdict

(53)

Lawyers for Human Rights said yesterday Mrs Mandela was fortunate to have escaped imprisonment

LHR national projects director Ms Jody Kollapen said although the question of the appropriate sentence was problematic, the judgment was nevertheless well-reasoned and motivated

She said the findings of the Appeal Court, which differed from those of the trial court, were notable factors in determining the sentence

However the Azanian People s Organisation has condemned the judgment. ANC Youth League leader Peter Mokaba who has shared platforms with Mrs Mandela, said yesterday he was pleased she had been "vindicated"

> **"We hope that those who thought she would be buried by this action will say they were wrong"**
> **Peter Mokaba**

"We hope that those who thought she would be buried by this action will say they were wrong, unless they are malicious," he said.

On Mrs Mandela's acquittal on the charge of accessory to assault after the fact, Mokaba said "What was taken from her as a result of these allegations must now be given back."

Mokaba added that Mrs Mandela's trial was now part of the past. "She will be judged on her political work and the work she has done for the community " — *Sapa*

# 'How a white man misled me'

252

## ■ Man says he thought he was being offered a job:

Sowetan 3/6/93

**By Isaac Moledi**

A WITNESS in the case of two former Sanlam employees appearing on charges of murder told the Middelburg Circuit Court yesterday that he signed insurance policy forms thinking he was applying for a job

Mr Andries Funani was testifying before Mr Justice TT Spoelstra in the trial of Mr Isak Kruger and Mr Cornelius Loubser

The two men are facing five charges of murder, three of attempted murder and 13 of fraud

Funani said on January 3 last year he and three other men looking for jobs at the offices of the Department of Manpower in Witbank were approached by Kruger, who said he could offer them jobs in Pietersburg

Kruger told them he was looking for unmarried men between the ages of 20 and 29 who could sell clothing

He was looking for men who had no children and had Standard 8 and 10 certificates.

Funani said Kruger demanded to see their identity documents He said he and three other men were later offered the jobs

They were instructed by Kruger to get into a bakkie which later took them a nearby military base.

He said after Kruger had spent some time at the base, he and the other men were taken to Sanlam's offices in Witbank where they were given forms to fill in

Asked by defence counsel Mr Johan Nel whether he knew what the forms were for, Funani said "All I knew was the forms were for employment."

He had seen Kruger fill in their particulars on the form

# AWB insists that talks be suspended

Buss. day 8/6/93

RAY HARTLEY

THE AWB would never become involved in talks with communists because this amounted to "sitting around a table and trying to negotiate with the devil himself," AWB leader Eugene Terre'Blanche said yesterday.

Addressing a lunch organised by Randburg mayor Brian Crail, he said ANC president Nelson Mandela was under pressure from radicals, including his estranged wife Winnie, to nationalise banks and industries once the ANC came to power.

In a separate statement issued yesterday, the AWB called for the immediate suspension of negotiations because of attacks on whites The organisation said it would have "no choice but to use other methods" if talks were not stopped.

Terre'Blanche said conflict between MK and Inkatha would worsen once the ANC had achieved a 70% majority in nonracial elections, because Zulus would never accept rule by Xhosas

Communism was the only political philosophy which had as its objective "the dethroning of God. I don't believe you can compromise with communism They are not interested in any form of power sharing; what they really want is SA", he said.

Terre'Blanche said in his experience blacks were incapable of sharing power. "Our task is to prepare for war and a bloody revolution. There is no way confrontation can be prevented," he said.

"I was the first leader to sign a non-aggression pact with Inkatha," he said.

"The AWB is not the racist organisation the media makes us out to be. I will talk with any leader — white, brown or technicolour. But I want to talk to real leaders," he added

"I was the first leader to speak on behalf of a people and not a race We must not make the mistake that the NP, the CP and the HNP have made by demanding a country because they are whites," he said.

The lunch was attended by Randburg town councillors, businessmen and former DP co-leader Wynand Malan.

Meanwhile, TIM COHEN reports from Cape Town that President F W de Klerk and Afrikaner Volksfront leaders emerged from bilateral discussions yesterday acknowledging that "deep differences" existed between them.

The Volksfront delegation, which consisted of its leader Gen Constand Viljoen and CP leader Ferdi Hartzenberg, argued that free elections were impossible in the current climate of violence.

In a memorandum handed to De Klerk, the Volksfront argued that the current security situation nullified the mandate he received in the referendum and posed two options: to halt the negotiations process temporarily until the security situation improved to such an extent that all South Africans felt free to express their opinions without intimidation, or that De Klerk hold a referendum.

Hartzenburg said after the meeting that it was clear that deep differences existed between the front's position and that of government.

Deputy Constitutional Development Minister Fanus Schoeman said the proposals would be discussed in follow-up meetings

# Plan to boost opportunities for lawyers

Buss. day 8/6/93

THERE were too few opportunities for the number of potential candidate attorneys to be trained professionally and a Bill would soon be tabled in Parliament to provide alternate ways for law graduates to enter the profession, Deputy Justice Minister Sheila Camerer said yesterday.

In an address to a seminar presented by the Johannesburg Attorneys' Association and the Transvaal Law Society, she said in terms of the Bill graduates might enter the profession in five ways

- ☐ Attendance for at least four months at the Association of Law Society's Law School, plus one year of articles,
- ☐ Attendance at the Association of Law Society's Law School for four months plus a year of community service;
- ☐ One year of articles plus one year of community service;
- ☐ Two years of community service; or
- ☐ Five years of experience in an appropriate related legal practice.

"This will not only ensure greater possibility of entry into the profession, but will afford greater legal representation to persons who appear daily in our courts.

She said there were also opportunities in the public sector for entering the profession — Sapa

(252)

# ANC Natal branch calls for

VIOLENCE

(252) FM 4/6/93.

# Holding thumbs

**Political violence** is declining. The death rate from political strife has dropped to its lowest level in three years — even the post-Hani assassination killing spree in April failed to push the monthly death toll up to the level of the same month last year

According to figures released by the SA Institute of Race Relations, provisional figures for the first three months of this year indicate a "sharp downward trend in political violence While the daily average was 10 killed in 1990, seven in 1991, and eight in 1992, the daily fatalities averaged fewer than 4,5 between January and March. This is the first time in which the monthly fatality totals have been consistently lower than 150 since the second half of 1989."

Its observations are corroborated by the Human Rights Commission (HRC), which also closely monitors political violence levels. HRC researcher Eric Pelser says that even the tensions created by the Hani assassination failed to boost the death toll to the levels of previous years. Last year there were 3 499 politically related deaths — a daily rate of 9,6 and "we have noticed a definite decline in the level of killing since the beginning of the year "

Though the HRC's figures are higher than the Institute's sub-150 deaths a month, they reflect the same trend Pelser says their figures show the death tally for February 1992 was 234 compared with 179 this year, in March there were 437 deaths last year compared with 181 this year, and last April there were 356 deaths, compared with 259 fatalities in April this year (the month of the Hani assassination)

Pelser says the decline is largely attributable to a substantial fall in the number of fatalities in the PWV area though the decline has been general.

Hostel violence, in particular, has dipped significantly since September, when government and ANC signed the Record of Understanding In the five months prior to that there were 125 incidents resulting in 204 deaths. In the next five months the HRC recorded 45 incidents of hostel related violence ending in 33 deaths

He adds, however, that the Katlehong/Thokoza violence on the East Rand contrasts sharply with the overall trend and will undoubtedly boost the May death toll It is also too early to know whether or not the East Rand violence marks the beginning of a new trend or whether it will be confined

The institute says violence in the first quarter continued to be concentrated on the Witwatersrand and in pockets in Natal/KwaZulu, which accounted for 50%-63% of all political deaths. The main flashpoints are Empangeni, Durban, Maritzburg and Richmond.

The organisation adds that in spite of the wide publicity given to white civilian fatalities in political violence, the bulk of victims are still black.

Prime targets for political violence include squatter camps and hostels, but trains and railway stations have attracted significantly fewer attacks than in the past Conversely, however, there has been a rise in the number of attacks on taxis and buses ■

## Indemnity application

A DECISION on the application for indemnity of a key witness in the Goniwe inquest, Col Lourens du Plessis, is imminent, according to a spokesman for President F W de Klerk's office (252)

Du Plessis' instructing attorney Wayne Gray has expressed concern at an earlier decision by De Klerk to refer the application to Justice and Defence Minister Kobie Coetsee, as the Defence Force was involved in the inquest

B/DAY 4/6/93

Star 4/6/93

# New move on criminals

A Bill providing for certain criminals, including violent ones and sex offenders, to be declared dangerous and jailed for an indefinite period was tabled in Parliament yesterday. The Criminal Matters Amendment Bill gives effect to a Booysens Commission recommendation that psychopathy be seen as an anti-social personality disorder and not a mental illness. — Sapa

(252)

# Lean and clean, but DP dodges difficult rights

W/Mail 4/6 – 10/6/93.

*The Democratic Party's draft Bill of Rights is elegant, simple and on mark. But it skims over the tough, uncomfortable issues.*

By **ALBIE SACHS**

ON first reading, I rather liked the Democratic Party's draft Bill of Rights It is lean and clean without being mean It is certainly the neatest and most compact of the many drafts prepared by different bodies.

If one day children are commanded to learn the text of a Bill of Rights off by heart, they will certainly opt for this one. Since a certain innocence should lie at the heart of every Bill of Rights, the elegance and simplicity of phrase are to be commended

There are three major strategic and difficult questions that any Bill of Rights has to face. On all of them the DP document at least pointed in what I consider the right direction.

The first is over the scope of the Bill of Rights Does it act only as a limitation on government action, or does it have wider application? It is sometimes said that a Bill of Rights only applies vertically between citizen and state, and not horizontally between citizen and citizen.

In South African conditions, the real question is whether privatised apartheid is to be permitted by the constitution (or, even worse, protected by it)

The DP draft declares that the rights contained in it shall be respected and upheld not only by all organs of state but also "where applicable, by all persons"

This is particularly important in relation to the section on equality which says there shall be equal treatment and no discrimination Discrimination is defined as unjustified differentiation Differentiation on a number of specified grounds is presumed to be unjustified unless it is "the result of a decision made in the exercise of the type of private choice which preserves personal autonomy"

By implication, differentiation which was not truly based on private autonomy, but simply intended to keep blacks, or gays, or women, or disabled people or Jews out of a job or a house or a motel, would be unjustified.

The second praiseworthy option of broad significance made by the drafters is in favour of the legitimacy of affirmative action The dreaded or desired term is not itself used Instead, it is provided that differentiation on specified grounds shall be presumed unjustified "unless it is part of a rational programme intended to remedy substantial inequality"

Put another way, differentiation designed to overcome disadvantage suffered by blacks or women (or older people or non-believers etc) would not be held to violate the equality clause provided it was part of a rational programme to advance the rights of those held back

The third relates to social and welfare rights, though once again these dreaded or desired words are not used In an article called Entitlement to the Essentials of Life, every citizen is said to be entitled to the food and water necessary for survival, to shelter from the elements, to basic health care, to a basic education, and to a clean and healthy environment.

No matter that it promises little more than at least the workhouse for all, a year ago this would have been considered socialism

The article goes on to emphasise that basically it is up to parliament, rather than the courts, to decide on these entitlements Any decision by parliament which is reasonable and practicable and which respects the limitations on available resources, shall be regarded as justified

So, having given the DP reasonably good marks for overall style and for substance in these key areas, why do further readings of the document leave me disquieted?

Strangely enough, while the DP seems to have made some tentative but creative advances in the areas where it is generally considered weakest, namely, in relation to overcoming de facto inequality, it disappoints in relation to its chosen ground of libertarianism.

I will repeat an expression I have used before This is Illyria, lady — This is South Africa, man

Albie Sachs ... 'The DP's Bill of Rights points in the right direction' Photo: ERIC MILLER

In South Africa you have to spell certain things out If you are against censorship, you must say so explicitly, or use language that leaves no doubt, not simply speak about freedom of expression If you wish to uphold the rights to conscientious objection, you must use language that points clearly in that direction

I do not see anything that outlaws or at least severely inhibits phone-tapping, intercepting mail, spying on people, bugging rooms (sorry, *Weekly Mail*, though I think you were right to do wrong), tailing people and keeping secret files. These are the modern, Kafkaesque ways of controlling and manipulating people. Something stronger than the vague though important right to dignity and to privacy is required

Then there is the question of capital punishment Perhaps it is because I am the son of Solomon that I object to the drafters' claiming to follow what they call the Solomonian policy adopted by the Law Commission, namely, to leave it to future judges to decide whether capital punishment violates the right to life or not

When the original Solomon ordered the child to be cut in half, he in fact intended to force a decision, not to postpone one His objective was to discover who truly had heart and courage, and who was simply the opportunist Capital punishment should be outlawed Full stop

Perhaps the most striking weakness of all is in relation to the rights of arrested persons

The draft says that every person who is arrested or detained shall have the right to be released or to be charged and tried within a reasonable time

The phrase "within a reasonable time" seems unreasonably vague. When I first practised at the Bar, it was axiomatic that 48 hours was the maximum period that someone could be held before being brought to court. Successive security laws have so undermined our libertarian consciences that unless we use words of an imperative character, detainees will be kept for far longer in the new new South Africa than they were in the old old South Africa

Then, on a third reading of the draft, I discover that much of its elegance comes from it having avoided many of the hard, nuggety and uncomfortable questions that should have been tackled

Gender oppression is not new, but the revolt against it and the determination to establish well-protected human rights for women, is The draft shows an awareness that there is discrimination against women but does not tackle sexism and patriarchal domination. The dignity and privacy clauses could be built upon — at the moment they appear quite pallid in the face of extensive violence against and subordination of women, in the home, in the streets and at work

Similarly, the question of workers' rights is ducked altogether. No future parliament should be able to take away the three basic rights that workers have won the right to independent unions, to collective bargaining and to strike

There is nothing on children's rights and a very weak section on language and cultural rights, a difficult area that requires great sensitivity and thought.

The section on property rights might be acceptable if present ownership was considered legitimate. In fact, the way people were dispossessed by conquest and racial statutes undermines the legitimacy of present titles and demands a much more nuanced property clause than the present pro-status quo one

Finally, the drafters cosily and disappointingly rely on the existing judiciary to enforce the Bill of Rights The introduction to the document states that a special constitutional court, presumably even one at the apex of the judiciary as in the United States, would become "too contentious, powerful, politicised" One wonders what the present court has been these last decades ...

**●Albie Sachs is a member of the ANC's constitutional committee.**

Star 4/6/93

# I killed in Lesotho, admits ex-SAP mole

By Zingisa Mkhuma

The Motsuenyane commission of inquiry into alleged ANC violations of dissidents' human rights yesterday heard how a former police informer shot and killed a "comrade" and took part in the killing of two others during a 1982 SADF raid into Lesotho.

Self-confessed police informer and Returned Exiles Committee chairman Patrick Hlongwane, in a video-taped interview, described how he had helped the SADF by pointing out ANC houses in Lesotho before taking part in the killings.

Hlongwane sat in front of the panel and watched the recording in silence

In the taped interview, he said he was among the people who raided the Matala area of Lesotho in December 1982 and described how in one house they found three "comrades", who were lined up against a wall before being shot.

He said he killed at least one of them with an R-1 rifle and was paid R500 on his return to South Africa.

Before the inquiry adjourned for the day, commission chairman Dr Sam Motsuenyane asked Hlongwane whether he had anything to say. Hlongwane said the people who took part in the killings were "professionals".

According to the tape, the raiders had a braai, drank beer and smoked dagga and Mandrax on the night of the raid.

(252)

The inquiry is continuing.

# Batman's mission: Buy Modise shoes

W/Mail 4/6 – 10/6/93 (252)

*Allegations that MK cadres were subjected to the personal whims of the ANC's 'prisons architect', Joe Modise, were heard in the inquiry into the organisation's camps.*

*By* **WEEKLY MAIL REPORTER**

UMKHONTO WESIZWE commander Joe Modise was the "ANC prisons architect", according to a witness at the Motsuenyane Commission of Inquiry into human rights abuses in African National Congress detention camps.

The witness, former MK member Samuel Mngqibisa, made his accusations during an appearance before the commission in which he read from a prepared statement.

The accusations are the most damning indictment of Modise to come out of the hearings so far. Modise is due to testify before the commission.

Mngqibisa, who claims to have been one of Modise's batmen, said he was bitter about the way he was treated by his "boss" and would like to see him justify his actions in exile to the nation.

As early as 1978, claimed the former cadre, Modise threatened MK men with detention camps in Angola if they were undisciplined. He said MK soldiers were ordered to undertake difficult missions and, if they refused to obey, they were labelled agents and sent to Angola.

Worse still, said the witness, was that cadres were forced to risk their lives to satisfy Modise's personals whims. Men who knew they were wanted in South Africa were forced to infiltrate the country to buy expensive shoes and clothes in Johannesburg for Modise.

Mngqibisa said his problems started because of his open critisism of the tactics and maladministration of the camps by Mbokodo, MK's security wing. He told the commission he was detained in 1978 on specific orders from Modise and served "a slavery sentence" of 14 months' hard labour in a Zapu prison in Lusaka. He was released in 1980 when Zapu members were repatriated after the Lancaster House agreement.

The same year, he said, Modise dispatched him to Livingstone in Zambia He and three other MK men were to cross the crocodile-infested Zambezi river into Botswana and Zimbabwe. According to Mngqibisa, this was a test of his loyalty to the ANC. His unit was called back to Lusaka in 1983.

In July 1984, an angry Modise ordered him to go to Tanzania, because he continued "being a nuisance in his sight". Mngqibisa said Modise lied to him about a vocational training centre in Dakawa, where he was to further his studies. When he arrived in Dakawa, there was no centre.

In 1989, he claims, Modise's continued statements that there were agents infiltrating MK in Dakawa led to the construction of a prison there He was also behind the conversion of former girls dormitories in Ruth First Camp, Dakawa, into cells, where Mngqibisa was detained.

Mngqibisa also made allegations of sexual abuse in the camps, claiming that he was part of a group which exposed Mbokodo's harassment of young girls fresh from South Africa He said it was tradition in the ANC, especially in Mbokodo, to sexually abuse young girls. The promise of scholarships was used to elicit sexual favours and, if the girls resisted, they were detained and labelled agents of the government.

**Joe Modise ... Expensive tastes?**
**Photo: PATRICK EKLOFF**

Mngqibisa further told the commission that Modise's son was given preferential treatment He smoked dagga and stole property, but was not arrested. Instead, he was sent abroad to a military academy to further his training.

In a letter to the International Committee of the Red Cross, Mngqibisa accuses former Tanzanian president Julius Nyerere, Zambia's ex-leader Kenneth Kaunda and Angola's Marcellino dos Santos of being accomplices to ANC atrocities in exile because they authorised ANC kangaroo courts and prisons in their countries.

Speaking to *The Weekly Mail* after the hearings, Mngqibisa said: "If the commission's resolutions are not implemented, I am taking further steps. I will seek assistance from Judge Goldstone.

"Some ANC leaders in exile thought we wouldn't come back. They enslaved us We thank Dr Mandela for negotiating our return His initiatives caught the exile leadership with their pants down. What Mbokodo did to me has caused me much pain and suffering The hatred and grudges are at a high degree. Something has to be done."

# Goniwe: witness may reveal all

Star 5/6/93

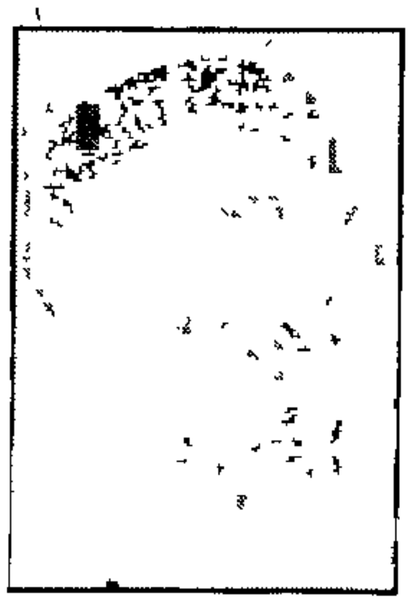
**MARTIN CHALLENOR and SAPA**

CAPE TOWN — The true story behind the murder of anti-apartheid activist Matthew Goniwe and three others nearly eight years ago could unfold in court next week. (252)

This follows a decision by President F W de Klerk to grant indemnity from prosecution to a key witness, South African Defence Force Colonel Lourens du Plessis.

Du Plessis is expected to testify on a military signal ordering the "permanent removal from society" of Goniwe and other political activists.

In a statement last night, De Klerk said he had given Du Plessis indemnity in terms of the Further Indemnity Act of 1992, in respect of the dispatch of a signal on June 7 1985.



**MURDERED: Activist Matthew Goniwe.**

This would allow Du Plessis to give evidence in an impartial way at the judicial inquiry in Port Elizabeth before Judge President Zietsman into the death of Goniwe and other people, De Klerk said.

Du Plessis delayed giving evidence to the inquiry pending the outcome of his application for indemnity.

Du Plessis is scheduled to give evidence on Tuesday when the inquest resumes in the Port Elizabeth Supreme Court.

He has alleged in an affidavit that the military signal sent from Eastern Province Command to the State Security Council on June 7 1985, was a death warrant.

Du Plessis said the then head of the command, Lieutenant-General "Joffel" van der Westhuizen, had ordered him to send the signal

● TO PAGE 2.



Star 5/6/93 (252)

## Goniwe

● FROM PAGE 1.

Van der Westhuizen, now head of Military Intelligence, has denied all knowledge of the signal.

Less than two weeks after the signal was sent, Goniwe, Sparrow Mkhonto, Sicelo Mhlawuli and Fort Calata — activists in Cradock civic politics and in the United Democratic Front — were slain and their charred and bullet-riddled bodies found at Blue Water Bay near Port Elizabeth.

Police last year offered a reward of R200 000 for information leading to the conviction of Goniwe's murderer.

The inquest into Goniwe's death, which began in Port Elizabeth in March, heard that a task group had met to consider whether Goniwe should be reappointed to his post as a teacher.

Witnesses present at the meeting, including Johan Vermaak, a former DET official, and Major-General Johan Geldenhuys, a former air force general who was in the chair, denied that the signal had ever been presented to them.

Part of the inquest was spent trying to establish the whereabouts of the "Goniwe signal" which had disappeared during the inquiry.

Adamus Stemmet, former strategic communications officer of the State Security Council, said he recalled being shown the signal but was almost certain it had not been left with him. The man who showed it to him, General Johannes van Rensburg — former head of the strategies branch — said he could not remember whether he had given it to Stemmet or destroyed it

The existence of the signal was revealed last May, after Transkei military leader General Bantu Holomisa released a military document in which Van der Westhuizen, then a brigadier in Eastern Province Command, was named as having issued a signal to "permanently remove" Goniwe from society.

That led to the a nine-month investigation and a second inquest on the orders of De Klerk.

# Indemnity limit denied

(252) CT 7/6/93

THE government denied at the weekend that indemnity granted to Colonel Lourens du Plessis — a key witness in the Goniwe inquest — was "insufficient to ensure his giving evidence on any matter in an uninhibited way"

The former EP Command staff officer was indemnified on Friday in respect of his evidence about a signal recommending the "permanent removal from society" of Mr Matthew Goniwe His indemnity does not cover any role played by him in "Operation Katzen", an alleged secret SADF plan to oust former Ciskei president Mr Lennox Sebe

A government statement on Saturday said President F W de Klerk had agreed to grant Colonel Du Plessis indemnity against the advice of the board established in terms of the Further Indemnity Act

The board earlier found there was some dispute as to whether an offence with a political motive as provided for in the act had in fact been committed

# Police probe complaints against developer

S/Times 6/6/93 (C/Metro)

By CHIARA CARTER

THE Fraud Squad is investigating complaints against a Cape Town property developer whose business activities were revealed in Cape Metro last week (252)

The Fraud Squad said it had been investigating a single complaint against Mrs Valerie Tito and her company, Innovation Designs, but had widened its probe when further complaints followed last week's report

Cape Metro was innundated with calls this week from people alleging they had also had problems with Mrs Tito

Mrs Tito confirmed yesterday that there were "problems" but said "unavoidable technical delays" were to blame

Last week Cape Metro reported that Mr Lesley Johnson had paid Innovation a R12 244 deposit for his home, but nine months later he was still waiting for building to begin on the plot he had bought from the company

Mr Johnson has instructed attorneys to sue for the ret[illegible] of his deposit

An attorney handling the transfer of the land on which Mr Johnson's house is to be built has confirmed that Mrs Tito's company has been summonsed for payment of the purchase price

Mrs Tito said the delay in building Mr Johnson's home had been "caused by a problem with subdivision" She said she had failed to take transfer of the property because she was unhappy with changes to the deed of sale and was worried that the contract could "be fraudulent"

This week Mr Ernest MacDonald, a businessman who sold nine plots in Brooklyn to Mrs Tito last year, said she had paid a deposit of R10 000 He alleged she had failed to pay the balance of the price even though the property had come up for transfer three times (24)

He claimed that a demolition company hired by Mrs Tito had pulled down the houses on the site, although Mrs Tito was not yet the legal owner of the property

Police confirmed that Mr MacDonald had laid charges of malicious damage to property and theft against Mrs Tito and the demolition company

Mrs Tito denied she was responsible and said she had expected the demolition company to obtain "the necessary permission" before knocking down the houses

She said she still wished to buy the land, but claimed Mr MacDonald had blocked the sale

Mrs Chesirie Rosier, who paid a R16 000 deposit for one of the houses that were to have been built on the property, said this week Mrs Tito had undertaken to refund her money "I am still waiting to hear from her"

Mrs Rosier has instructed lawyers to sue for the repayment of the R16 000

Mrs Tito said on Friday she had not refunded the deposit as she would "still like to go ahead with the development"

There had been "unforeseen delays" with two other developments in Maitland and Belhar, but she intended going ahead with these, Mrs Tito said

She planned to build a 30-unit development in Belhar on land allocated by the Regional Services Council The delays with this project were attributable to "technical matters"

A builder, Mr Sian Isaacs, said this week he had instructed lawyers to sue for R18 000 he claimed Innovation owed him for materials and work done on two houses in Parow and Brooklyn last year

Mrs Tito said she had not paid Mr Isaacs because of "inferior workmanship"

She is involved in several court cases arising from business disputes

Another of Mrs Tito's clients, Mr Aubrey Christians, said he was suing her for the repayment of R26 113 that he claimed she failed to pay to the owner of a property he was buying, as well as the R3 450 deposit he forfeited when the deal fell through

In a counter-action Mrs Tito has disputed Mr Christians's claim and is claiming R20 375 in damages for the repudiation of their agreement

**'UNAVOIDABLE DELAYS' Mrs Valerie Tito in Cape Town this week Picture AMBROSE PETERS**

# FW overrules indemnity board

S/Times 6/6/93

(252)

By DAWN BARKHUIZEN

**PRESIDENT FW de Klerk overruled a recommendation by the Indemnity Board, and granted partial indemnity to a key witness in the inquest into the murder of Cradock teacher Matthew Goniwe.**

The board advised that an application for indemnity by former Eastern Province staff officer Colonel Lourens du Plessis not be granted, a spokesman for Mr de Klerk said last night.

Colonel du Plessis was, however, granted indemnity to allow him to give evidence about a signal recommending the "permanent removal from society" of the UDF activist, but was not indemnified in terms of Operation Katzen, a secret SADF plan to oust former Ciskei president Lennox Sebe and turn the Eastern Province into a unified Xhosa state.

Mr de Klerk's spokesman said the board had disputed whether a political offence in terms of the Further Indemnity Act had been committed.

"After consultation with State legal advisers and the acting Attorney-General of the Eastern Cape, Mr Michael Hodgen, Mr de Klerk nevertheless granted indemnity to Colonel du Plessis to allow him to testify freely in the Goniwe inquest," the spokesman said.

He said indemnity had not been granted in respect of Operation Katzen because "insufficient material" was available indicating that any offence had been committed.

"Nor is Operation Katzen the subject of any judicial proceedings. Should any information become available indicating that Colonel du Plessis committed any crime with a political motive related to Operation Katzen, his application for indemnity may be reviewed," the spokesman said.

The former SADF officer's lawyer, Mr Wayne Gray, said his client — who was expected to take the stand in the Port Elizabeth Supreme Court on Tuesday — was reconsidering his decision to testify.

"Colonel du Plessis is in possession of damning information about Operation Katzen, and there is an inextricable link between Katzen and the Goniwe murder," Mr Gray said.

"If he takes the stand under the conditions of his indemnity, he could lay himself open to prosecution," Mr Gray said.

Details of Operation Katzen — masterminded by Lieutenant-General Joffel van der Westhuizen, now head of Military Intelligence — emerged at the start of the reopened inquest earlier this year.

The signal referring to Mr Goniwe's "removal" is alleged to have been issued by General van der Westhuizen.

# Will the truth now finally be heard?

C/Press 6/5/93

STATE President FW de Klerk has granted indemnity to a key witness in the Goniwe inquest, Col Lourens du Plessis

Du Plessis is to give evidence on Tuesday when the inquest resumes in the PE Supreme Court

Du Plessis alleged in an affidavit that a signal he sent to the State Security Council in 1985 from the then head of EP Command, Lt-Gen Joffel van der Westhuizen, ordering the "permanent removal from society" of Matthew Goniwe and other political activists, was in fact a death warrant (252)

Van der Westhuizen, now head of Military Intelligence, has denied all knowledge of the signal

Two weeks after the signal was sent Goniwe, Sparrow Mkonto, Sicelo Mhlawuli and Fort Calata were found murdered near PE – Sapa

S/Times 6/6/93

# Magistrate told to pay costs

(252)

By DIANA STREAK

THE Cape Town Supreme Court has ordered a magistrate to pay costs and overturned his decision in a maintenance case which cancelled a father's payments for child support.

Describing it as one of the strangest cases he had encountered, Mr Justice Leslie Rose-Innes ordered magistrate Henry van Breda and the father to pay the legal costs of the case.

He also ordered that the monthly payment of R150 for the man's daughter, ruled "unnecessary" by the magistrate, be reinstated and backdated.

The case arose after a Joostenbergvlakte woman applied for an increase in maintenance for her 15-year-old daughter and was told that the previous agreement had been cancelled.

Her son, 13, had gone to live with his father because of "disciplinary" problems and the couple had agreed he would pay maintenance for the daughter only.

At a meeting with the father and the maintenance officer at the Kuils River magistrate's court last October, the father argued that he should not have to pay maintenance since each parent was now responsible for the expenses of a child

The mother refused to accept this and was told the matter would have to go to court

According to the mother, the magistrate agreed that each parent should be solely responsible for the resident child's expenses and told her that she should not receive further maintenance for the daughter

She told the magistrate that while she had no income or significant assets, her ex-husband had a fixed income, a house, motor vehicles, a caravan and a caravan site at Pearly Beach.

Mr van Breda responded that this did not matter and she could "go out and earn a living", she claimed.

Mr van Breda told her it would be pointless for her to try to get the maintenance order changed because she would then be liable to pay her ex-husband the same amount for her son as he paid her for the daughter, the woman claimed.

Mr Justice Rose-Innes described this reasoning as "nonsense".

Acknowledging that it was "extraordinary" for a magistrate to be ordered to pay the costs of legal action, Mr Justice Rose-Innes ruled that Mr van Breda and the father could share the costs or they could be borne by one of them.

A spokesman for the Department of Justice said it had taken note of the judgment, but until officials had had time to study the contents and investigate the matter, no decision on possible steps against Mr van Breda could be taken

# Accused feared armed lawyer

By DAN DHLAMINI

A KLERKSDORP prosecutor who carried a firearm inside his courtroom, has been warned by the Department of Justice not to do so because this endangered people in the court

The warning came after an accused complained to City Press about a gun which protruded from under the jacket of MC Burger, who prosecuted him last week. (252)

On Tuesday City Press observed the gun which Burger holstered under his armpit

C Press 6/6/93

Jerome Seroke, who was in the courtroom last week, said most blacks who were harassed or arrested by gun-wielding white policemen could not be blamed for mistaking the prosecutor for a policeman. In court people could be intimidated by the sight of a gun.

Burger said he carried the gun for his own safety and he had not intended to intimidate the accused

He would not comment when asked whether the armed court orderlies were not sufficient to protect everyone during the court sessions.

A spokesman for the Department of Justice, Charles Rabo, said it was the first time he knew of a prosecutor, lawyer or magistrate carrying his firearm inside the courtroom

However, he said it was important for people to know that Burger was a member of the departmental relief personnel who travelled extensively and had no permanent residence in Potchefstroom He said Burger did not have the necessary facilities for the safekeeping of his firearm as required by the Arms and Ammunition Act.

Said Rabo: "The carrying of firearms inside a courtroom does not constitute an offence. It's for personal security."

Rabo said steps had since been taken to arrange for the safekeeping of Burger's gun during office hours.

# 'Evidence was distorted'

By MARTIN NTSOELENGOE

AN ANC supporter told the Rand Supreme court this week how two "racist" magistrates on the East Rand "distorted and altered" statements he had made before them.

Michael Phama, 45, formerly of Phola Park, told Judge MC De Klerk that two court interpreters had also misinterpreted what he told the magistrates Phama said the interpreters had spoken Zulu while he had been speaking Xhosa

Phama is contesting a statement made before an Alberton magistrate last year when he "pleaded guilty" to 21 counts of murder and 24 attempted murders – as well as another statement made early this year when he also "pleaded guilty" to all charges

At the start of his trial in the Rand Supreme Court this week he changed his plea to that of not guilty

The state alleges that Phama and two others fired on Inkatha members who were on their way to a rally on September 8 1991.

Inkatha members earlier told the court that they were travelling along Khumalo Street to Thokoza Stadium when Phama blew a whistle which was followed by a volley of gunfire

After Phama's allegations were made tapes were brought from the Alberton Magistrate's Court and replayed to check if Phama's accusation against court officials were correct. Two special senior interpreters were also called in from the Westgate Magistrate's Court to help analyse the tapes.

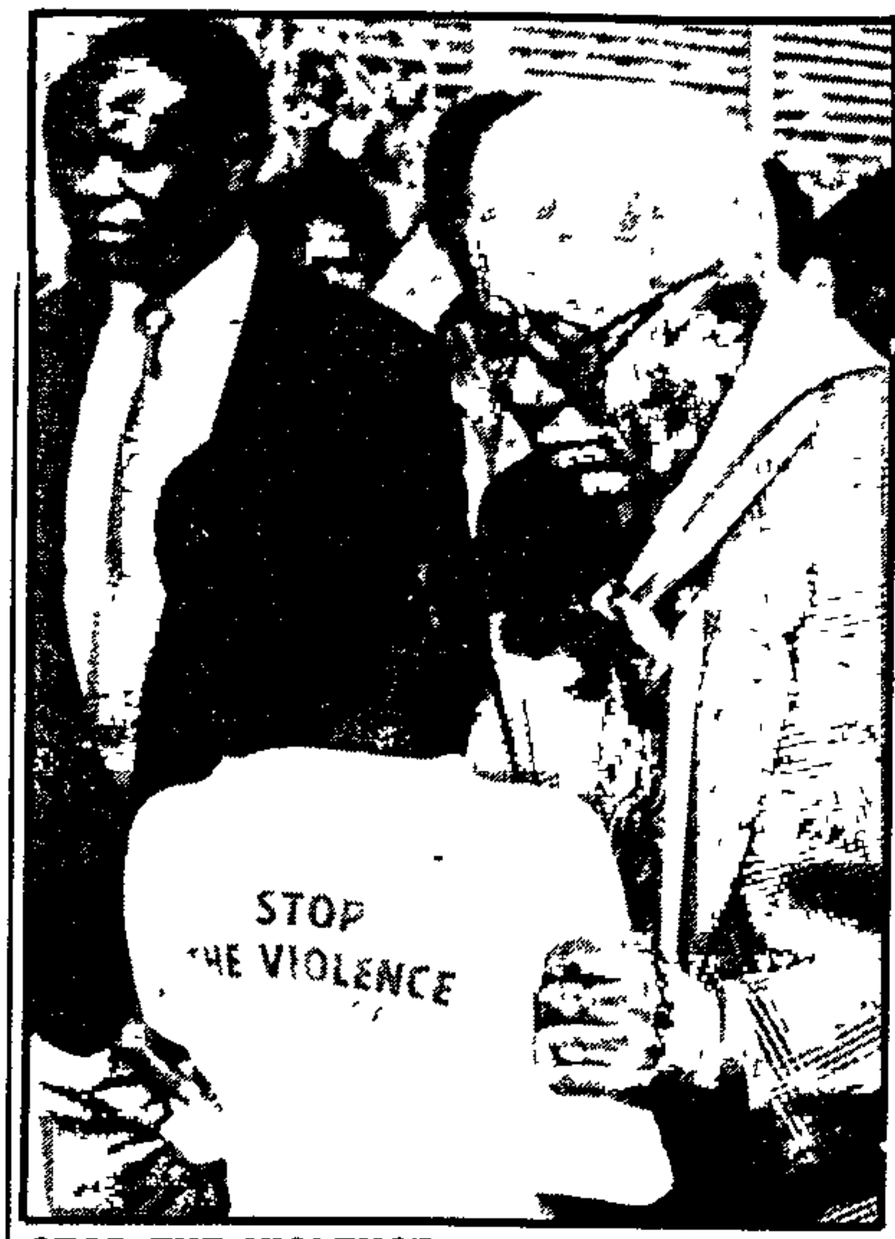
Their analysis on the validity of the statements is yet to be heard in court.

Phama claimed in his statement made in Alberton that on the day of the shooting he and two others were ordered by a Capt Mbalathe to shoot at Inkatha followers.

It is also alleged Phama confessed to shooting to death traffic officer Jacobus Lukas Van der Merwe and attempting to kill his two colleagues on April 14 last year

# Helping children in trouble with the law

Cipress 6/6/93




**STOP THE VIOLENCE ... Walter Sisulu commemorates International Day of the Child.**

By ZANELE VUTELA (252)

LAWYERS for Human Rights marked the International Day of the Child, June 1, by launching a book entitled *Children in Trouble with the Law.*

This pratical guide written by Anne Skelter concentrates on how the present law, imperfect as it is, can be used to help children who are arrested, held and tried for criminal offences.

Skelter, LHR's director for Applied Criminal Justice, decided to write the book because when she worked as a prosecutor she realised children were disadvantaged in the criminal justice system.

When she joined LHR four years ago, she worked as a defence lawyer for children facing charges. Last July she started a project in which she used to go to the courts every day and see every juvenile who faced charges with the aim of getting him or her legal representation and a speedy release from custody.

In her work, she tried to use the existing law as creatively as possible The book, according to Skelter, should be used as a quick and efficient guide for legal practitioners, court personnel, social workers and psychologists, as well as paralegal and child-care workers

It highlights some of the problems encountered when children are caught up in the South African justice system It also identifies some possible solutions and alternatives.

# Govt defends cops indemnity

Sowetan 7/6/93

## Witness 'free to talk openly':

THE Government has denied indemnity granted to Colonel Lourens du Plessis of the SA Defence Force, a key witness in the inquest of murdered activist Matthew Goniwe, was "insufficient to ensure his giving evidence on any matter in an uninhibited way" (252)

Du Plessis was indemnified on Friday about his evidence regarding a signal recommending the "permanent removal from society" of Goniwe — *Sapa*

Star 7/6/93

# Charge Strydom, urges widow

(252)

The State would be obliged to prosecute paroled mass killer Barend Strydom for murder if it were clear that the death of one of his victims last week resulted from wounds inflicted by Strydom, Lawyers for Human Rights director Brian Currin said yesterday.

Oupa Geelbooi Mabena (48) died in Kalafong Hospital near Pretoria on Wednesday, allegedly due to complications caused by the injuries he had suffered in the Strijdom Square massacre in Pretoria almost five years ago.

Mabena was paralysed after Strydom shot him at close range on November 15 1988

Mabena's widow, Virginia, and Lawyers for Human Rights have called for Strydom to be charged with his death

Currin said the Government would have to decide whether the grounds for Strydom's release on parole covered any future consequence of his actions — Pretoria Bureau.

# Sharp eyes needed for legal eagles to find work

**The legal profession is facing a dilemma with jobs becoming a luxury for graduates and young qualified lawyers. This report is by LIBBY PEACOCK, Weekend Argus Reporter.**

ARG 6/7/93 (282) 7/6/93

FOR six years, law student John Smith dreamed of the day he would enter the legal profession. But now, he has been forced to swop his black robe for a waiter's apron.

John (not his real name) is one of thousands of South African law graduates who cannot find jobs as articled clerks and are forced to settle for second best.

Law graduates may not practise as attorneys unless they have spent two years working for a law firm as articled clerks.

The president of the Law Society of the Cape of Good Hope, Mr Carl Pohl, told Weekend Argus this week some of the large Cape Town law firms received close to 100 applications from graduates at the end of last year, but could employ only about three articled clerks each.

By the end of last year, only about 35 of 120 University of Stellenbosch law graduates had secured jobs.

"We are already employing clerks for next year. The situation is getting worse," he said.

Many young qualified attorneys who could not get jobs with existing firms were setting up their own practices, but two years of articles were often not enough to enable an attorney to run an office professionally, he added.

The president of the Association of Law Societies of South Africa, Mr Mervyn Smith, said only about 40 percent of law graduates would find jobs as articled clerks at the end of the year.

Mr Smith said last year 3 000 students graduated, but only 1 200 found articles

"The future looks even bleaker. About 3 800 students will receive law degrees at the end of this year. We expect only 1 500 will find attorney firms who can accommodate them for articles."

An informal survey conducted at the University of Cape Town last year showed only 43 of the 144 students in final year law class had found jobs as clerks.

While 22 students were still looking for jobs, 27 decided to go overseas, 23 continued studying, eight were looking for articles for next year and 11 found other legal work.

Eight students were uncertain about their future, while two were anxious to leave law.

Ms Bronwyn Pithey, president of the Candidate Attorneys' Society, said recommended salaries for clerks were R1 700 and R2 000 a month for first-year and second-year respectively.

An LlB degree was "practically useless" if one could not find a job as an articled clerk. Graduates were "at the mercy of law firms".

Degrees also were "very theoretical" and students needed practical experience.

While rumours in the city's legal community were rife that some articled clerks worked for less than R1 000 a month, or even for nothing, an informal survey conducted by the society last year showed most city firms paid articled clerks the minimum recommended salary of R1 700.

However, one Three Anchor Bay firm paid R1 000, while a George firm paid R1 300. Firms in Uitenhage and Grahamstown paid R1 000 and R850 respectively, while some Bloemfontein firms paid R800 a month.

Professor James Fourie, dean of the law faculty at the University of Stellenbosch, confirmed a large percentage of the 120 students who finished their LlB studies there last year did not find jobs as articled clerks.

"Many prolong the agony by going overseas for a year," he said.

But most students were "very particular" and wanted jobs in Cape Town or Johannesburg.

He said students would have to become realistic and prepare to scale down their expectations and do articles with country firms.

Star 7/6/93

# Colonel's indemnity is sufficient – Govt

(252)

CAPE TOWN — The Government on Saturday denied that indemnity granted to SADF Colonel Lourens du Plessis — a key witness in the inquest of murdered activist Mathew Goniwe — was "insufficient to ensure his giving evidence on any matter in an uninhibited way"

The former Eastern Province Command staff officer was indemnified on Friday in respect of his evidence regarding a signal recommending the "permanent removal from society" of Goniwe.

But lawyers representing Du Plessis expressed concern that the indemnity did not cover any role played in "Operation Katzen," an alleged secret SADF plan to oust former Ciskei president Lennox Sebe and create an anti-ANC state

A Government statement on Saturday said President F W de Klerk agreed to grant Du Plessis indemnity against the advice of the board established in terms of the Further Indemnity Act.

The board earlier found there was some dispute as to whether an offence with a political motive, as provided for in the Act, had in fact been committed.

De Klerk nevertheless granted indemnity to Du Plessis "to enable him to testify freely in the inquest into the death of Mr Goniwe and others."

Indemnity was not granted regarding Operation Katzen because there was insufficient evidence indicating an offence had been committed.

Nor was Operation Katzen the subject of a current judicial proceeding.

The statement said if information became available indicating Du Plessis committed a crime with a political motive regarding the operation, "his application for indemnity would be reviewed" — Sapa

Star 7/6/93

# Tough no-smoking laws on way

Political Staff (252)

CAPE TOWN — June 4 will go down in smokers' history as the day Dr Rina Venter, Minister of National Health, began to put out their matches and lighters On that day she piloted the Tobacco Products Control Bill through its second reading debate in Parliament.

Once the Bill is law, Venter will be able to ban smoking in public places, and force tobacco products and advertisements to carry a health warning

People who sell or supply tobacco products to children under 16 may be jailed for six months or fined.

But Venter does not have it all her own way, even in her own ranks — President de Klerk is smoking again, and Minister of Law and Order Hernus Kriel also smokes

One National Party MP put a cigarette to his lips while Venter was introducing the Bill

And as she was summing up the debate at the end, a parliamentary messenger delivered a packet of cigarettes to an NP MP behind her

Venter is to ask Finance Minister Derek Keys to increase the tax on tobacco products

SOWETAN Monday June 7 1993

pentant killer rises to nine

# Charge 'Wolf' — LHR

Sowetan 7/6/93

By Abbey Makoe

## ■ 1988 SHOOTINGS Wit Wolf's ninth victim, Geelbooi Mabena, died last week:

(252)

Police should charge mass killer Barend Strydom for murder after one the victims of his 1988 shooting, Mr Geelbooi Mabena, died as a result of his injuries last week, Lawyers for Human Rights said yesterday

Director of LHR Mr Brian Currin said "He should be charged with murder, even if his lawyers might argue in a court of law that he has been granted indemnity from his past deeds"

Currin said it was legally possible that the Attorney-General could bring forward a charge of murder because the murders with which Strydom was charged do not include Mabena

Strydom was charged and convicted of murdering eight people in a shooting spree at Strijdom Square in Pretoria on November 15 1988 Mabena, who died after suffering severe complications, became Strydom's ninth victim Mabena was buried on Saturday in Hammanskraal, north of Pretoria A former cleaner with the Pretoria City Council, Mabena became paralysed after being shot by Strydom.

His unemployed widow Virginia said that her main problem was educating their two children

Strydom, who received eight death sentences for the murders, was saved from the gallows when the Government granted him indemnity on the grounds that his acts were politically motivated An unrepentant Strydom has since boasted about the killings, saying he would do it again if the need arose Police spokesman Colonel Ray Harrald said yesterday a murder docket was being "perused" He would not comment on whether Strydom would be charged, saying it was for the Attorney General to decide

# Nelson Mandela calls for mass movement for peace

Buss. Day 7/6/93

MARITZBURG — ANC leader Nelson Mandela has called for signatories of the national peace accord to meet urgently to strengthen the accord and unleash a "mass movement for peace".

The ANC president also called on all South Africans to unite around the tentative April 27 election date, to begin the healing process in violence-torn SA

Mandela was addressing several hundred people in the Maritzburg City Hall yesterday before he unveiled a memorial statue honouring Indian leader Mahatma Gandhi, who, almost 100 years ago, was evicted from a train reserved for whites at Maritzburg Station.

Mandela said in spite of the peace accord's shortcomings, the document had assisted in quelling violence

"We can no longer delay our coming together again as signatories of the peace accord, to strengthen it and revisit the source of violence and give peace fresh momentum."

Solutions to the current violence could only be found through collective efforts by all polical leaders, Mandela said.

"We need to unleash a mass movement for peace .. " We can't delay a meeting of signatories of the peace accord"

The ANC president welcomed recent reports about the phased integration of armed formations in the country into the security forces, saying this could be an important subject to be addressed by signatories.

The ANC welcomed all peace initiatives, said Mandela.

He commended a recent peace plan by the ANC southern Natal region and also by the group of concerned Zulus who had both called for urgent meetings between the ANC president and Inkatha leader Mangosuthu Buthelezi

Referring to the election date, Mandela said he was aware some people had reservations on the issue.

"We urge them all to look to the future and consider their reservations so that this momentous event becomes a unifying occasion in our strife-torn country," said Mandela.

Never before had there been such a moment in SA's history as the forthcoming election, Mandela said, urging South Africans to ensure it marked a time of healing, he said.

Earlier, Anglican Archbishop Desmond Tutu reiterated the call for all armed formations in the country to come together in a joint peacekeeping force controlled by the international community. — Sapa.

● See Page 6.

# Row over witness's indemnity

Buss. Day 7/6/93

RAY HARTLEY

GOVERNMENT yesterday denied that a key witness in the investigation into the death of eastern Cape activist Matthew Goniwe had been given insufficient indemnity to allow him to testify freely

President F W de Klerk earlier granted SADF Col Lourens du Plessis indemnity for his role in transmitting a signal from Eastern Province Command to the State Security Council in June 1985, which is alleged to have led to Goniwe's assassination, but refused him indemnity for his role in "Operation Katzen"

Du Plessis' lawyer Wayne Gray said in a statement he was concerned that efforts to delve into Operation Katzen — allegedly a plan to destabilise the eastern Cape in the 1980s — were being resisted.

Du Plessis has already signed an affidavit stating that the Goniwe signal amounted to a "death warrant"

A government spokesman said De Klerk had granted Du Plessis indemnity with regard to the signal against the advice of the board established in terms of the Further Indemnity Act

"There are no reasonable grounds for the inference that the indemnity granted to Du Plessis is insufficient to ensure his giving evidence on any matter in an uninhibited manner," the spokesman said

"Indemnity was not granted relating to Operation Katzen because there was insufficient material available indicating that any offence had been committed. Nor is Operation Katzen the subject of any current judicial proceeding."

Sapa reports the partial indemnity was described as a "travesty" which demonstrated that the Further Indemnity Act was a licence for murderers, DP Youth spokesman Colin Douglas said.

# Taxi group lobbies for control board

Buss. Day 7/6/93

THEO RAWANA

INDISCRIMINATE issuing of permits is the major cause of taxi wars, and only a taxi control board will curb it, says the SA Black Taxi Association (Sabta).

Ten minibuses were gutted at Baragwanath taxi rank, Diepkloof and Orlando East on Thursday.

Mike Ntlatleng, public affairs director of Fabcos (mother body of Sabta), said that since government decided on deregulating the taxi industry, the Transportation Board had been issuing permits without first checking passenger volumes or ranking facilities

"There is no liaison even between the board and the local authorities, and this results in taxis choking up space and fighting over limited ranking facilities.

"Through a taxi control board, with which every taxi would need to register, input would be available to councils and the board and, since all members would have to follow a code of conduct, situations such as those experienced at present would be avoided," Ntlatleng said

Ntlatleng said taxi industry leaders were talking to the Transport Ministry to have taxis subsidised

Taxis, he said, carried 1,6-million passengers a day and buses and trains only 600 000.

"A technical committee is working on how government should subsidise the industry," Ntlatleng said.

# ANC to put pressure on govt over gun licences

Buss Day 7/6/93

RAY HARTLEY

POLITICAL pressure would be exerted on government to allow firearm licences to be issued to ANC members who still faced charges because they refused to apply for indemnity, SACP chairman Joe Slovo said yesterday.

Police said at the weekend that they could not grant Slovo a firearm licence because he still faced charges of "murder, sabotage and terrorism".

Police said Slovo had been granted temporary indemnity in respect of the charges, but had yet to apply for permanent indemnification. "Legally he can still be tried on these charges if permanent indemnity is not granted"

Slovo said the ANC had rejected the Indemnity Act because it empowered President F W de Klerk to decide on indemnification "in secret".

"I don't accept the police rationalisation; I believe it to be purely political discrimination. If I were to be assassinated, Hernus Kriel would have blood on his hands."

Slovo said government was using its refusal to grant firearm licences to ANC leaders as a device to force the organisation into accepting the Indemnity Act.

It was ironic that the man who allegedly shot and killed an ANC member in events surrounding the Chris Hani funeral, had reportedly had two of his four firearms returned to him for self-defence purposes, Slovo said.

ANC spokesman Carl Niehaus described the police position as "shocking". He said Slovo's life was clearly in danger following the exposure of an assassination plot.

There were ANC fears that government might act against those who had temporary indemnity if negotiations and elections did not go their way, Niehaus said.

Police said in terms of the Arms and Ammunition Act, "any person found guilty of an offence involving the use of a firearm, is regarded as unfit to possess a firearm".

# Hanging bill still pending

**Political Staff**

THE present session of Parliament is expected to finish towards the end of this month provided the legislative programme is completed, a government spokesman said yesterday.

Among the bills which have to be passed is the "hanging bill" — which has yet to be tabled — when MPs must vote for or against the continued moratorium on the hanging of criminals.

A second session is expected to be held by mid-September to pass legislation to set up the independent electoral commission and the proposed transitional executive council which will allow for multi-party control of government functions

# 'I caught men bugging Staal'

(252) Star 8/6/93

By Montshiwa Moroke

A police major told the Johannesburg Regional Court yesterday how he caught men bugging the office of former Civil Co-operation Bureau co-ordinator Staal Burger in September last year

Major William Charles Landman was testifying in the trial of Weekly Mail co-editor Anton Harber (33) and Jan Kleynhans (29) in connection with the newspaper's surveillance of Burger The men pleaded not guilty before magistrate F Roets to charges of crimen injuria and malicious damage to property.

Charges against Frederick Britz (24), Hermanus Scheepers (23), Andries Olivier (24) and Werner Meish (29) have been withdrawn

Landman said he had received instructions to go to the Breakers hotel in Berea

At the hotel, Burger showed him a hole in the skirting board in the wall of his office Burger said someone was in the next room

They went to room 16 after Burger unlocked the door. They found two men there and decided to check the bathroom. The door was locked After Burger unlocked it, they found two more men, one of whom was Kleynhans

Landman said. "One of them had something under his jacket and when I opened the jacket I saw a tape recorder I identified myself and asked the purpose of their presence. No one answered

"We returned to the hotel room where I took possession of a tape recorder connected to a listening device with a speaker Kleynhans called me aside and told me he was a private investigator busy with an investigation"

He took the four men to Brixton where he saw a cassette in the tape recorder and another two in an attache case Burger then said he wanted to lay charges against the men

Landman said Burger telephoned him a few days later and told him he had two more cassettes He took the cassettes and sent the tape recorder, the listening device and the five cassettes to the SAP forensics laboratory in Pretoria

The police officer said under cross-examination by Eric Dane, counsel for Harber, that the hole bored in the wall would not have been visible to someone who was not familiar with the room

The hearing continues today

# Judiciary warned about past mistakes

Star 8/6/93

Political Staff and Sapa

CAPE TOWN — Magistrates with a poor human rights record or who are known to have been insensitive to people would have their positions reviewed under a new administration, David Dalling said on Monday

Speaking in debate on the Magistrates Bill, he said the ANC did not favour purges, but the new Magistrates Act would not stop it from acting against certain magistrates (252)

The proposed Bill makes magistrates independent of the executive authority. It creates a Magistrates Commission to preserve the independence of the magistrate's courts and to determine service conditions

Dalling, an ANC member who sits in Parliament as an independent for the Sandton constituency, said the Government should withdraw the Bill and await its consideration by a new government.

He had been authorised to announce that the ANC would be duty-bound to review the statute as soon as possible.

It had to be asked why the Minister of Justice, just when the NP was preparing to hand over government, had suddenly found it essential to give magistrates statutory protection which they did not have before

Minister of Justice Kobie Coetsee said the ANC should state its intentions with the judiciary clearly, and say whether it intended undoing the entire justice administration system.

"Must we advise magistrates to become civil servants so that they will be safe? Mr Nelson Mandela has publicly said that public servants need not be concerned about their jobs in a new dispensation," he said

Democratic Party MP Tony Leon said the ANC was threatening magistrates with a witch hunt that was open to horrendous abuse. He said:

"If you start saying your tenure in office depends on how you behaved yourself in the past and if you were sympathetic to our particular line, it is an invitation to a lynching"

# Alleged conman appears in court

Sowetan 8/6/93

By Joe Mdhlela

■ **Black homeseekers allegedly paid man R4 500 for non-existent houses and residential sites:**

A MAN who allegedly swindled several would-be homeowners of more than R2 million in deposits for non-existent houses and residential sites appeared in the Johannesburg Regional Court yesterday

Mr Ronald Francis, who has been granted bail of R1 000, had his fraud and theft case postponed to June 21 pending further investigations

He faces 40 charges of fraud and theft and appeared before Mr H Wolmarans

Francis allegedly conned about 450 people who each paid deposits of R4 500 to him after he had promised to build them houses or provide land on which they could build their homes

Francis later reportedly fled the country when police wanted to arrest him

(252)

## Residential stands

He is alleged to have raked in about R2 million in deposits for houses and residential stands He allegedly left his "clients" stranded when he did not carry out his promises

Trading as Invesco-International, Francis is alleged to have used his building company, Econdi Construction, to build a few luxury houses in Soweto and other black residential areas

According to newspaper reports, Francis tried to negotiate a deal in which he would hand himself to the police if they met "certain conditions"

Police refused to accede to these conditions

Francis (27) is said to have led a life of luxury and to have owned several expensive cars

# ANC detainee claims he is 'not bitter'

## ■ Former cop says Hani ordered shooting of detainee:

Sowetan 8/6/93

A FORMER policeman who joined the ANC and was later detained for five years by the organisation, yesterday claimed he harboured no ill thoughts

Saying that he was now "a mental wreck", Jamiez Tombisa told the Motsuenyane Commission into alleged abuses of human rights in ANC detention camps that he would only claim compensation — totalling R300 000 — from the organisation

During cross-examination, Tombisa said during his detention he was often sick, had a dislocated shoulder and a constantly bleeding nose and ears He received no medical treatment until after he was released

(252)

His detention followed the death of a Tanzanian citizen, a "comrade Savage"

Counsel for the ANC, Brian Koopedi, suggested that Tombisa was detained as he was implicated in the death of Savage and that he had tried to run away

"This is not true The main reason I was locked up was because I was a former member of the SAP and was regarded as an enemy agent."

Tombisa also stated that:

- A prisoner who was held in the same camp was raped on consecutive nights by ANC commissars, and
- Chris Hani ordered the shooting of one Bongani who later received treatment in a hospital in Tanzania — *Own Correspondent*

# 'Mental wreck' tells of ANC detention

Star 8/6/93

By Mokone Molete

252

A former policeman, who joined the ANC and was later detained by the movement for five years, yesterday claimed he harboured no ill feelings agains the ANC

Jamiez Tombisa told the Motsuenyane Commission into alleged human rights abuses in ANC detention camps that he would, however, claim compensation of R300 000 from the ANC

He was a "mental wreck" after his detention

During cross-examination, Tombisa said that while detained he was often sick and had a dislocated shoulder, a constantly bleeding nose and bleeding ears He received no medical treatment until after he was released

His detention followed the death of a Tanzanian citizen, a "comrade Savage"

Counsel for the ANC, Brian Koopedi, suggested that Tombisa was detained because he had been implicated in Savage's death

Tombisa replied "This is not true. The main reason I was locked up was because I was a former member of the SAP and was regarded as an enemy agent"

In answer to further questions, he stated that a prisoner who was held in the same camp was raped by ANC commissars, and that Chris Hani ordered the shooting of one Bongani who later received treatment in a hospital in Tanzania

The Star Tuesday June 8 1993 7

# Winnie sentence startling, says Leon

Star 8/6/93

Mandela . . . sentence "induced sense of shock".

CAPE TOWN — The sentence of Winnie Mandela was startling and induced a sense of shock, and it would be a great pity if the controversy over the matter overshadowed other significant judgments by the Chief Justice, Tony Leon (DP Houghton) said in Parliament yesterday

Speaking in debate on the Judges' Remuneration and Conditions of Employment Amendment Bill, he said other significant judgments by Mr Justice M Corbett generally suggested he was prepared to see "justice prevail, though the heavens might fall"

"Many, myself included, would hesitate to take issue with a five-judge Appellate Division Bench presided over by the Chief Justice himself

"However, the Winnie Mandela sentence remains startling, and the public can be forgiven for thinking that the payment of a paltry fine for conviction on several counts of kidnapping — which is, after all, a capital offence — is inappropriately lenient"

Given the lead the Appellate Division had taken in fashioning the jurisprudence around sentencing options such as community service and correctional supervision, it seemed strange that this had not been applied in Mandela's case. — Sapa

# Lawyers will be accessible to poor

(252)

By BARRY STREEK
Political Staff

A NEW incentive to law graduates to work in community-based legal clinics as part of the requirements for admission as attorneys was tabled in Parliament yesterday

The new measure, the Attorneys Amendment Bill, will provide a major incentive to legal students to work in deprived areas and make the law more accessible to poorer communities

This could result in law students from the three universities in the Western Cape spending two years or more working in rural areas or townships like Khayelitsha and Manenburg before qualifying for admission as attorneys

In the past, work in law clinics did not count towards the qualifications for admission as attorneys and many graduates moved into formal articles as soon as they had completed their studies

With prohibitive legal costs, this system tended to make the legal process and defence in trials accessible only to those with financial resources and those facing capital punishment

The new legislation could help redress this situation

Prospective lawyers will have to work in the clinics full-time for defined periods

The Department of Justice said in a memorandum attached to the bill that it would ensure that "vast numbers of persons who appear in courts daily will have the benefit of legal representation" CT 9/6/93

rightful claim to its own tertiary educational institution

*The DEPUTY MINISTER OF EDUCATION AND CULTURE Mr Chairman, what the hon member for Brits said, is true However, it is also true that in the end an institution must also be economically viable in order to be retained This department takes the view that everything in its power should be done to see to it that Afrikaans speaking students who wish to qualify as teachers will be able to receive their training there That will only be possible if the college is made viable

†I refer to the steps that have actually been taken to make the college more viable I just want to elaborate on that First of all, as the hon member knows, the college has been opened to all races It has been converted into a bilingual institution, and the admission requirements have fortunately also been changed I am proud to announce that the standards have remained intact

It is no longer necessary to take Afrikaans as a subject, and it is also no longer necessary to have passed Afrikaans in the matriculation examinations Despite this, however, there were 1 200 applications during the past year, primarily from the KwaZulu area Only 120 were accepted, and of those only seven turned up at the end of the day The reason for this is that apparently there are insufficient study loans available I want to request the KwaZulu government to make these loans available in order to make the college more viable

*Mr J A JORDAAN Mr Chairman, earlier this evening we heard the NP and the ANC refer to their Rolls Royce here That, of course, is the Roelf and the Ramaphosa show When it comes to education in this country, I want to say to the hon member for Brits that as far as education in this country is concerned, we call the hon member for Pinetown the Rolls Royce of politicians

At the same time I, as an Afrikaans-speaking person, want to say to him that if ever there was a person who was prepared to do his share in respect of Afrikaans medium set-ups, it is the hon member for Pinetown He can go to any person in education circles, the Federal Teachers' Council, the Hennie Marees, and ask them with whom they consult about the future of Afrikaans medium education in this country He will discover that it is the hon member for Pinetown to whom they talk rather than to him

I want to refer to the college of education in Durban That college has had problems with insufficient student numbers for a long time, and that is the crux of the matter Since the college is transforming itself, etc, it is essential that it should become a dual medium college

If hon members look at the students from Natal, where Afrikaans is not used as a medium at university level, they will see that there are students studying at the RAU and at the University of the Orange Free State that are committed Natalians They return to Natal in great numbers because they are involved in Natal and are embedded in the set-up there

The argument advanced by those hon members that we want to insult the Afrikaner and his institutions in Natal, is totally nonsensical

Mr R M BURROWS Mr Chairman, I must say I rather think of myself as a Volkswagen than a Rolls Royce [Interjections ]

I must state categorically that I have no problem with the Durban College of Education remaining an entirely Afrikaans-medium institution However, I want to point out to the hon member for Brits that the reality is that if one wants that, one has to fire 24 lecturers to achieve the same lecturer-student ratio that one has at Bloemfontein That hon member does not want to fire 24 lecturers Therefore, the only way to keep them in their posts is by bringing more students to that college But there are no more Afrikaans-medium students in Natal So what is one going to do? That hon member should give us the answer

As far as the University of Natal is concerned I, much more than this hon member for Brits, have always stood for the medical school of the University of Natal being open to all races I have said it on the council and I have said it publicly The medical school and the council are examining the issue

The fact is that there is still a Government restriction on admission, which is still racially based That is the answer [Time expired ]

The DEPUTY MINISTER OF EDUCATION AND CULTURE Mr Chairman, in conclusion I would like to thank the DP for stressing the point that they also want this college to be kept





open at all times We would like to thank them for their support One can achieve that

*I referred to the fact that this year as many as 3 000 applications from other groups may be received for consideration

†I must also point out that to a certain extent—perhaps the hon member for Pinetown will differ with me on this point—one must also guard against the overtrading of teachers I know we are going to become one department

*One should proceed cautiously I think that with the support of all the parties in this House it will be possible to keep this college open and to enable Afrikaans-speaking students to receive their training as future teachers there by taking the steps that we announced here this afternoon

Debate concluded

QUESTIONS

†Indicates translated version

*For oral reply*

*Own Affairs*

**Hennenman: illegal march/evacuation of primary school**

*1 Mr A GERBER asked the Minister of Education and Culture †

(1) Whether pupils of a certain primary school, the name of which has been furnished to the Minister's Department for the purpose of his reply, had to vacate their school as a result of an illegal march by Blacks through Hennenman on or about 7 May 1993, if not, what is the position in this regard, if so, for how long were they prevented from returning to the school to receive tuition,

(2) whether the Free State Education Department addressed a letter to this school beforehand in which it was requested *inter alia* that parents should not enter the school grounds while carrying weapons, if so, what are the relevant details,

(3) whether parents are entitled to claim back any compulsory school fees in respect of the period during which their children were prevented from receiving tuition as a result of the above-mentioned events, if not, why not, if so, what amount may they claim back,

(4) whether he will make a statement on the matter? B910E

†The DEPUTY MINISTER OF EDUCATION AND CULTURE

(1) Yes, from 9 35–13 15,

(2) no,

(3) no, school fees paid by parents are intended primarily for the running costs of the school The cost of the tuition itself is borne mainly by the state in the form of the salaries of the teachers,

(4) no

*For written reply*

*General Affairs*

**Indemnity granted to exiles/prisoners** 252

220 Mr P G SOAL asked the Minister of Justice

(1) What, as at the latest specified date for which information is available, was the total number of (a) exiles and (b) prisoners who had been granted indemnity in terms of the Indemnity Act, 1990 (Act No 35 of 1990);

(2) whether any applications for indemnity by (a) exiles and (b) prisoners have been unsuccessful to date, if so, (i) how many and (ii) for what reasons,

(3) whether there have been any disputes between the Government and any other bodies in respect of the granting of such indemnity, if so, what are the (a) names of the bodies concerned and (b) relevant particulars in regard to these disputes,

(4) whether any of these disputes have been resolved, if not, why not, if so, what is the total number of exiles and/or prisoners involved,

(5) whether he will make a statement on the matter? B466E

cont→

The MINISTER OF JUSTICE

At the outset it is important to take cognizance of the fact that a clear distinction has to be drawn between those instances where indemnity has been granted in terms of the provisions of the Indemnity Act, 1990 (Act 35 of 1990), and the indemnity provided for in the Further Indemnity Act, 1992 (Act 151 of 1992) The following answer consequently only relates to indemnity in terms of the 1990 Act Regarding the position in terms of the 1992 Act refer to the answer to question No 92 of 18 March 1993 (col 678)

Most applicants who apply for indemnity furnish an address inside the Republic as their residential address It is therefore impossible to ascertain whether an applicant is an exile when an application for indemnity is received The Government and the United Nations High Commissioner for Refugees, however, agreed in the Memorandum of Understanding dated 4 September 1991 to a separate process to assist in the repatriation of exiles to South Africa This is a separate exercise where each returnee submits a Voluntary Repatriation Application Form in order to be cleared in terms of the Memorandum of Understanding before returning to South Africa The UNHCR acts as facilitator in this process

(1) (a) As no indication is given on the application form whether or not the applicant is an exile, it is not possible to determine how many exiles have applied for indemnity

5 220 People have, however, been granted indemnity for illegally leaving the country in terms of the Indemnity Act, 1990 (Act No 35 of 1990) It can be assumed that these people were exiles

6 963 People have been cleared under the voluntary repatriation process to date

(b) None The release of prisoners is a separate exercise and does not fall under the Indemnity Act 1990

(2) (a) (i) Yes 88 Persons who submitted Voluntary Repatriation Application Forms, have not been cleared

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With regard to applications in terms of the Indemnity Act, 1990, no figure regarding exiles is available as no indication is given on the application form whether or not the applicant is in exile 370 Applications for indemnity have, up to 24 March 1993, been refused

(ii) Exiles who made use of the voluntary repatriation process of the UNHCR were not cleared because it was established that they had outstanding criminal offences for which they could be prosecuted should they return

Persons who were refused indemnity under the Indemnity Act, 1990, amongst whom some exiles could be included, were refused because the acts for which indemnity was sought, could not be regarded as events qualifying for indemnity as visualised by this Act

(b) (i) Prisoners are not indemnified, they are given a remission of sentence Consequently they do not apply for indemnity but for release 4 368 Prisoners were unsuccessful in their applications for release These were all instances which by no stretch of the imagination could be regarded as political

(ii) Those prisoners whose offences were not regarded as political offences, were not released

(3) (a) Yes Various political organisations, acting on behalf of their members, as well as groups such as Lawyers for Human Rights and the Human Rights Commission, from time to time disagreed with decisions not to indemnify certain applicants

(b) The disputes were all about the question whether a specific offence should be regarded as a political offence

(4) No statistics are kept regarding these disputes Where a dispute developed regarding the result of a specific application, the matter was referred to an Indemnity Committee for a recommendation and then again submitted to the State President for consideration Interested parties could appear before the Indemnity Committee and submit argument at that forum In order to obtain figures it will be necessary to examine each file in the Office for Indemnity, Immunity and Release which is not feasible

(5) A statement is not necessary





**Goldstone Commission: members/advisers/officials**

342 Adv T LANGLEY asked the Minister of Justice·†

(1) Whether he will furnish the names of the (a) (i) members, (ii) advisers and (iii) officials of, and (b) other persons involved in, the Goldstone Commission, if not, why not, if so, what are the relevant details,

(2) whether this commission makes use of subcommittees to carry out some of its functions, if so,

(3) whether any (a) members of such a subcommittee and/or (b) persons referred to in paragraph (1) took part in a raid on premises of the Directorate of Covert Information of the South African Defence Force, if so, (i) what are the names of these members and/or persons and (ii) in respect of each of the persons referred to in paragraph (3) (b), (aa) what is his or her nationality, (bb) in what capacity was he or she acting and (cc) who is his or her employer? B799E

The MINISTER OF JUSTICE

(1) (a) (i) The members of the Goldstone Commission (hereinafter referred to as the Commission) are

1 The Honourable Judge of Appeal Mr R J Goldstone (Chairman)

2 Adv D J Rossouw (Vice Chairman)

3 Adv M N S Sithole

4 Miss L G Baqwa

5 Mr G Steyn

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(ii) I am informed by the Goldstone Commission that the Commission does not have any advisers as such at its disposal Members of the legal profession are appointed from time to time to serve on committees of the Commission and experts are utilized to, for instance, serve on the panel on mass action The Commission may also, in terms of section 5 of the Prevention of Public Violence and Intimidation Act, 1991 (Act 139 of 1991), with the concurrence of the State President, appoint as many institutes as it may deem necessary to assist it in the exercise and performance of its powers, duties and functions

(iii) The officials who serve on the permanent personnel of the Commission are as follows

1 Adv J J du Toit (Deputy Attorney General, Witwatersrand)—advocate for the Commission

2 Adv J P Pretorius (Senior State Advocate of the office of the Attorney General, Transvaal)—advocate for the Commission

3 Adv Glenn Cuthbertson (A Legal Administration Officer) — secretary

4 Lieutenant-Colonel H Heslinga (from the Soweto Murder and Robbery Unit)

(b) The administrative personnel who have been transferred from the Department of Justice, are

Mrs L de Beer—secretary
Mrs E Pelton—secretary

The Commission also has investigating units which are deployed in the regions where the most problems are encountered The following persons are members of the investigating units

*Witwatersrand Investigating Unit*

1 Col A Eagar

2 D/Sgt P M van der Merwe

3 D/Sgt M J Moremi

4 Adv H Fabricius (Advocate of the Pretoria Bar)

cont'd

5 Adv W Sceales (Advocate of the Pretoria Bar)

6 Mr P Botbijl (Attorney)

7 Mr M G Sims (European Economic Community (EEC) representative of Britian)

8 Mr C Kooimans (EEC representative of the Netherlands)

*Natal Investigating Unit*

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1 Maj F Dutton

2 D/Sgt Z Sibisi

3 D/Sgt C B Nxumalo

4 Lt B Naidu

5 D/W/O Vilakazi

6 D/Sgt B R Mhlongo

7 D/Sgt B P Mhlongo

8 Mr O D Hart (Attorney)

9 Mr K C Hojem (Attorney)

10 Mr D Pistorius (Attorney)

11 Mr V M H Antunes (EEC representative of Portugal)

12 Mr P Biehl (EEC representative of Denmark)

*Port Elizabeth/East London Investigating Unit*

1 Maj J F Haynes

2 Mr D Geard (Attorney)

*Cape Town Investigating Unit*

1 Maj A G Campher

2 Mr J F van Niekerk (Attorney)

3 Mr N Tunbridge (Attorney)

4 Mr M Hales (Attorney)

5 Mr D Otto Bonke (EEC representative of Germany)

(2) No, according to the Commission it does not make use of sub-committees, but does use committees, members of its personnel and the investigating units of the Commission

(3) (a) and (b) I am further informed by the Goldstone Commission that no members of a committee participated in the search of the Directorate Covert Information on 11 November 1992 According to the Commission the following members of the Witwatersrand Investigating Unit, participated in the search

1 Lt-Col H Heslinga of the South African Police, who was in command of the investigation and is a South African Citizen

2 D/Sgt P M van der Merwe of the South African Police and a South African Citizen

3 Adv W Sceales, of the Pretoria Bar and a South African Citizen

4 Mr P Botbijl, an attorney in private practice and a South African Citizen

5 Mr Tom Laidlaw, an EEC representative and a British Citizen

6 Mr Floris Bouma, an EEC representative and a Citizen of the Netherlands

According to the Commission, both Brigadier Botha and General Erasmus in command of the Directorate Covert Information were present when the files were seized At a certain stage the legal adviser of the Defence Force was summoned by the Directorate Covert Information and a representative of the State Attorney's Office arrived Adv J P Pretorius, advocate for the Commission, was summoned by Lt-Col Heslinga and reinforcements were requested from the South African Police General Le Roux of the South African Police arranged that members of the South African Police employed by Military Intellegence give their assistance to ensure that no files were removed from the premises The Directorate was given instructions by the South African Defence Force to give its complete co-operation

According to the Commission, Lieutenant-Colonel Heslinga and the members of the Witwatersrand Investigating Unit thus acted in their capacity as members of the personnel of the Commission

Further according to the Commission, Mr Laidlaw, when he discovered that it was the Directorate Covert Information which was being searched, voluntarily and before a dispute arose, offered to withdraw himself as he





felt that it would be inappropriate for him to be present Mr Bouma also withdrew The Commission emphasizes that the foreign representatives in the employ of the Commission did not inspect any document, file, etc They were also not present when interviews were held with the sources of informants of the Directorate Covert Information 252

**Number of persons on death row**

365 Mr J H MOMBERG asked the Minister of Justice †

252

(1) (a) How many persons who had been sentenced to death were on death row as at the latest specified date for which figures are available and (b) when was each of these persons sentenced to death,

(2) whether he will publish the names of these persons, if not, why not, if so, what are their names? B855E

The MINISTER OF JUSTICE

(1) (a) On 25 May 1993 296 persons were on death row

(b) and (2) Since a number of the persons are still awaiting the outcome of either Appeals or an Executive Decision I consider the matter too sensitive and will not supply names 252

**Black local authorities/townships: population**

377 Mr P G SOAL asked the Minister of Home Affairs

What was the (a) adult (i) male and (ii) female and (b) child population of each of the Black local authorities and townships in the Republic as at the latest specified date for which figures are available? B873E

The MINISTER OF HOME AFFAIRS

The number of adults and children by sex in each of the Black local authorities and townships is not available from the tabulations that have been prepared for the 1991 Population Census The total population by population group and sex has, however, been published in Table 2 of Report No 03-01-02 (1991) titled "Geographical distribution of the population, with a review for 1970-1991"

A further breakdown of adults and children for the areas concerned will require special programming for a tabulation from the basic census data with considerable time and cost implications

Buss. Day 9/6/93

# Bid to bring legal aid to poor communities

Political Staff

CAPE TOWN — A new incentive for law graduates to work in community-based legal clinics in qualifying for admission as attorneys was tabled in Parliament yesterday

The measure, the Attorneys Amendment Bill, will provide a major incentive to legal students to work in deprived areas and make the law accessible to poorer communities.

(2323)

In the past, work in law clinics did not count towards admission as an attorney and many graduates moved into formal articles as soon as they had completed their legal studies.

With prohibitive legal costs, this system tended to make the legal system and defence in trials accessible only to those with financial resources and those facing capital punishment

The new legislation could help reverse this process and result in more academically qualified lawyers working in townships

Prospective lawyers will have to work fulltime in recognised clinics

# Goniwe inquest postponed

Star 9/6/95

By Helen Grange

PORT ELIZABETH — The reopened Goniwe inquest was yesterday postponed to Monday in the Port Elizabeth Supreme Court (252)

The postponement followed an application by counsel for the SA Police, Pieter de Bruyn, who provided the court with no motivation

De Bruyn said he was fully aware the inquest had already been delayed for some time, but unforeseen circumstances had arisen.

"While we stress that no undertakings can be given, and while we do not wish to raise any hopes, the intention is to sincerely endeavour to facilitate the whole matter and to see if it cannot be expedited," he said.

Colonel Lourens du Plessis, who allegedly sent a military signal ordering Goniwe's "permanent removal", was to have testified yesterday

# news in brief

## Goniwe inquest postponed

Sowetan 9/6/93

THE inquest on Matthew Goniwe and three other Cradock activists was postponed once again in the Port Elizabeth Supreme Court yesterday

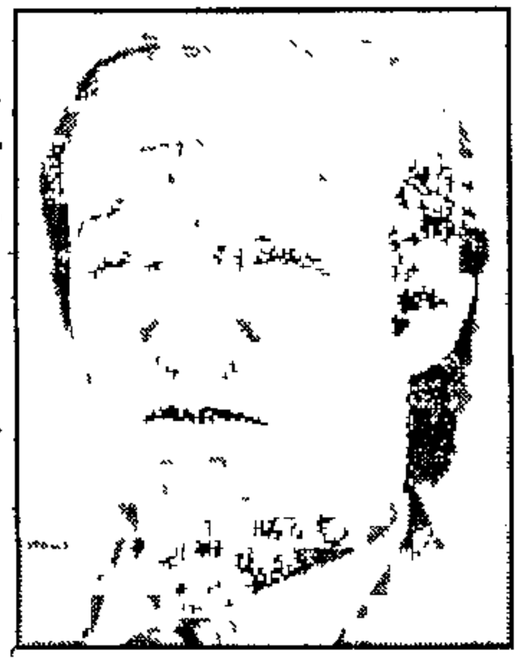
Mr PJ de Bruyn, SC, who has a watching brief for the police, asked for the matter to be postponed to June 14

"We are fully aware of the fact that the matter has been delayed for some time and should be brought to a conclusion as soon as possible It is exactly with this in mind that the application is made," he said (252)

Goniwe's badly burnt body and those of Fort Calata, Sparrow Mkhonto and Sicelo Mhlauli were found outside Blue Water Bay near Port Elizabeth in 1985

Star 9/6/93

# Bugging trial told of 'dirty tricks'



Staal Burger called Brixton police colonel

By Stan Hlophe

The Civil Co-operation Bureau was involved in dirty tricks to undermine and eliminate those perceived to be enemies of the State, the Johannesburg Regional Court heard yesterday.

Defence counsel Eric Dane said this at the trial of Weekly Mail co-editor Anton Harber (33) and private investigator Jan Kleynhans (29), who are accused of bugging the office of former CCB operative Daniel Ferdinand "Staal" Burger.

They have pleaded not guilty before magistrate F Roets to charges of crimen injuria and malicious damage to property

Dane told the court that Burger was the leader of the CCB's Unit Six, whose activities included eliminating anti-apartheid activists or damaging their property. The unit's targets included Archbishop Desmond Tutu, lawyer Dullah Omar and journalist Gavin Evans

"The CCB was involved in unlawful activities which were tantamount to terrorism, sabotage, murder, crimen injuria and malicious damage to property," he said.

Giving evidence earlier, Burger refused to say whether he was a Military Intelligence operative He also refused to comment on CCB activities which, he said, took place at the height of the "total onslaught" against South Africa and were lawful before February 1990.

Dane said his submissions on CCB projects were intended to show that the Weekly Mail's bugging of Burger's office at the Breakers Hotel in Berea, Johannesburg, was done in the public interest.

Burger said he had discovered he was being bugged when his handyman showed him a small hole in the skirting board on the wall of his office

He phoned a Colonel C Earl of the Brixton Murder and Robbery Unit, who sent policemen to his office They found four men, including Kleynhans, in an adjacent room

# Probe urged as more IFP leaders die

Star 9/6/93

Own Correspondent

DURBAN — The Inkatha Freedom Party has called on the Goldstone Commission to investigate the "serial assassination" of its leadership after the killing of more IFP leaders in Natal. (252)

It said the targeting of its lower-level leadership for political assassination was "symptomatic of a politically inspired strategy to emasculate the IFP prior to elections and render it incapable of contesting elections".

The IFP statement said nine IFP leaders had been killed in the past month, six of them in Natal, bringing the total toll to 294.

On Sunday another IFP leader, Mkhombiseni Buthelezi (48), branch chairman at Ekusayeni ward, KwaMthethwa near Empangeni, was killed. His death came shortly after another IFP leader, Ndabanzini Nzama, died at the hands of members of the Internal Stability Unit, allegedly when he fired at members of the ISU who were searching for illegal weapons.

The IFP has claimed Nzama's death was not accidental but part of a plot to "eliminate" him.

# ANC torture denied

Star 9/6/93

By Mokone Molete

Allegations of torture at ANC camps were "fabrications" aimed at discrediting the organisation, a former commander of Quatro camp in Angola told an inquiry into alleged ANC human rights abuses yesterday

Gabriel Mthunzi Mthembu, the camp's first commander, told the Motsuenyane Commission that rules and regulations governed the treatment of ANC prisoners.

Mthembu, who was known as Sizwe Mkhondo, said the people who alleged that abuses took place intended to "besmirch" the image of the ANC. (252)

"We have incontrovertible evidence that some of them still work for the system (SA Government)," he said

Appointed first commander of Quatro when he was 19 years old in 1979, Mthembu quoted incidences where he intervened when prisoners were abused.

Quatro has been mentioned in various statements before the commission and other commissions as the "torture centre" of ANC camps Mthembu was its commander from 1979 until 1982

The inquiry continues.

# Quattro 'had strictest rules'

Sowetan 9/6/93

## ■ Torture not the usual way:

THE first commander of the ANC's Quattro camp in Angola said yesterday torture was not the organisation's method of extracting information from prisoners

Mr Gabriel Mthunzi Mthembu, whose camp name was Sizwe Mkhonto, told the Motsuenyane Commission into alleged abuses of human rights in ANC camps that there were strict rules prohibiting the torture of prisoners It was only in "very extreme circumstances that third degree methods were used"

Referring to allegations about Quattro which have come up before the commission, he said that these came from people who are "aiming to besmirch the image of the movement" (Proceeding)

252

# I'm lying, Lenasia probe told

Star 9/6/93

By Cyril Madlala

Lenasia's security services chief yesterday admitted several times to a commission of inquiry that he was lying in his evidence — but denied he was doing so to protect anyone

Mahomed Hanif Osmany was testifying in Pretoria before the commission of inquiry into alleged corruption in Lenasia's management committee. It is investigating allegations of irregularities, malpractices and maladministration (252)

Osmany admitted he was lying, but when it was put to him that he was being untruthful because he was afraid of or trying to protect management committee chairman Thiru Chetty, he denied this

Leading evidence on behalf of the commission, Renier van Rooyen said Osmany had been manipulated and used by certain people to acquire properties and business rights under his name

Osmany was questioned about a bank loan which he obtained to buy property for his close corporation, Booi's Fencing and Construction, and was asked whether Chetty had put him up to it

He denied this But when confronted with the application documents, he admitted that Chetty's name appeared on them as a member of Booi's Fencing when he was not, and that the two had lied about this in the application

The inquiry continues today.

Itas and Sizwe | the second time to rape her at gunpoint. The trial continues today.

# Govt denies Slovo's claim over gun permit appeal

Buss. Day 9/6/93

LLOYD COUTTS

GOVERNMENT yesterday denied that it had refused SACP chairman Joe Slovo a firearm permit to force him into applying for permanent indemnity

"That is simply not true at all," Law and Order spokesman Capt Craig Kotze said yesterday

He also confirmed that the issuing of licences to ANC NEC members Ronnie Kasrils, Joe Nhlanhla and Alfred Nzo last week was being investigated

Slovo — the subject of several assassination plots — was refused a permit last week and said he had been told he would be granted one if he applied for permanent indemnity

He has accused government of attempting to put pressure on the ANC into accepting the Indemnity Act, which the organisation has rejected

Police said last week that Slovo had been denied a permit because he only had temporary indemnity and was linked to investigations into violent crimes

Kasrils, Nhlanhla and Nzo all have only temporary indemnity from prosecution

Kotze said the issuing of firearm licences was a policing matter. "Government did not refuse the firearm licence nor grant them to Kasrils and others The police did, in the normal course of their duties.

"Obviously, the guiding principle is that each individual has certain rights and the police have the responsibility of ensuring the policy is carried out equitably

"In the present situation it is alleged the police broke their own policy by granting firearm licences An alleged inconsistency in that policy is now being investigated, and it's got nothing to do with government," Kotze said

A spokesman for SAP headquarters in Pretoria confirmed yesterday that the incident was being investigated by SAP commissioner Gen Johan van der Merwe.

She said the investigation would last a few days



# Fraud charge against Dali Mpofu withdrawn

B/DAY 9/6/93

GAVIN DU VENAGE

THE fraud charge against the former deputy head of the ANC's social welfare department, Dali Mpofu, was withdrawn in the Johannesburg Regional Court yesterday

Mpofu had been accused of misappropriating hundreds of thousands of rands from the department, which Winnie Mandela headed The ANC had said more than R400 000 had disappeared while the two were in office Mpofu had denied the allegations

Mpofu was fired for financial mismanagement in May last year, and six months later threatened legal action against the ANC He said he would take the matter to the industrial court, claiming unfair dismissal Although a conciliation board was set up and one meeting held, Mpofu did not take it any further, said an ANC source

Mpofu claimed he and Mandela were victims of a smear campaign aimed at discrediting Mandela and anyone close to her, in an effort to take control of the ANC

Yesterday an ANC spokesman declined to comment

# Inquest is postponed

Buss Day 9/6/93

PORT ELIZABETH — The inquest into the deaths of Matthew Goniwe and three other political activists was postponed to June 14 yesterday after a request by the SAP's legal counsel

P J de Bruyn applied to Judge N Zietsman to postpone the case due to unforeseen circumstances. The application was made with a view to expediting the matter, he said

Legal counsel for the families of the deceased George Bizos SC objected to the length

Zietsman said the delay was regrettable but he would grant the postponement — Sapa

# Inkatha calls for probe into 'assassination plot'

Buss. Day 9/6/93

DURBAN — Inkatha has called on the Goldstone commission to investigate the "serial assassination" of its leadership following the killing of three IFP leaders at the weekend, reports Sapa

An Inkatha statement yesterday said the partially burnt body of Inkatha Youth Brigade chairman of the Ipelegeng branch in the western Transvaal, Paul Dintoe, 17, had been found by police near an old Schweizer-Reneke mine on Sunday

He had been abducted from his home on Saturday night and his body had multiple stab wounds, the statement said.

Mkhombiseni Buthelezi, 48, branch chairman at Ekusayeni ward, Kwa-Mtetwa, near Empangeni in Natal, was shot dead on Sunday, and the third killing was of an Inkatha organiser in Ozwathini's Emathulini ward, Inkatha said

The total number of Inkatha office bearers killed since 1985 was now 295

"The targeting of Inkatha's lower level leadership for assassination is symptomatic of a politically inspired strategy to emasculate Inkatha prior to elections," the statement said

□ Police have arrested three men in connection with the killing of five people in one of three attacks which claimed 11 lives last week in the Ntabamhlope area near Estcourt, in the Natal Midlands

The suspects will appear in court today

Our Maritzburg correspondent reports that seven people have been arrested following a crackdown on illegal firearms and wanted criminals by Greytown police and the SADF in the Appelsbosch area early yesterday.

The ANC Natal Midlands slammed the raid as "a concerted attempt to destabilise the ANC in the Midlands in preparation for a major attack by Inkatha"

ANC deputy chairman Blade Nzimande condemned the use of white farmers in SADF operations and demanded that "the SADF stop allowing white farmers to perpetuate their violence by giving them army uniforms"

"We warn white farmers and the security forces that their brutalisation of ANC members will not be tolerated," he said

PEANUTS By Charles Schulz

# ANC used third degree 'in extreme cases'

Buss. Day 9/6/93

LLOYD COUTTS

THE "third degree" was applied only under extreme circumstances as a method of interrogation at the ANC's Quattro detention camp in Angola, the camp's first commander and ANC intelligence official Gabriel Mthembu said yesterday.

He did not elaborate on what he meant by the "third degree".

Testifying at the Motsuenyane commission of inquiry into alleged torture in ANC camps, Mthembu denied torture had taken place at Camp 32 (Quattro), and said the "third degree" was employed only when people's lives were at stake

Interrogation techniques were governed by strict regulations, and the use of "political persuasion" on enemy agents was preferred. Agents — many of whom were compelled by circumstances to work for the SA regime — were told what the ANC stood for, and this proved successful

Mthembu, trained in East Germany and the Soviet Union and appointed to head Quattro in 1979 when he was only 19 — said he had never personally resorted to the "third degree". He said there had been instances of abuse by camp personnel, but that those responsible had been reprimanded and, in some cases, demoted

Mthembu said the ANC had been forced to create a detention camp when its operations and equipment in Angola were sabotaged, and when it became clear it had been infiltrated by agents.

"(It is) regrettable, some of us having to be brought here as if we have committed bad acts. My contention is that the people spreading such lies are people who are aiming to besmirch the image of the movement," he told the commission

# 7 000 people have been cleared for repatriation

CT 10/6/93

ALMOST 7 000 people had been indemnified and cleared for repatriation — far fewer than the 40'000 initially claimed — the Minister of Justice, Mr Kobie Coetsee, said yesterday

By March 24 only 370 applications for indemnity had been refused, he said in reply to a question by Mr Peter Soal (DP, Johannesburg North)

He said 5 220 people had been granted indemnity for illegally leaving the country and 6 963 had been cleared for voluntary repatriation (252)

# Witness tells of executed prisoners

Star 10/6/93

By Mokone Molete

A witness yesterday gave the Motsuenyane commission the names of two ANC prisoners who were allegedly killed for "crimes against the organisation".

Gabriel Mthembu, a former commander at Quattro camp in Angola, named the men only as Piper and Mahamba.

The commission is investigating alleged human rights abuses in ANC camps in exile.

Earlier in his evidence, he said a certain David Dumela had also been executed. He later retracted the name, stating that he had made a mistake.

Asked by commission chairman Sam Motsuenyane what had happened to Mahamba, Mthembu said "I think he was part of those who were given capital punishment."

Motsuenyane: "Does that mean executed?"

Mthembu: "Yes."

He told the commission that ANC leader Jacob Zuma would later deal in evidence concerning people who went missing in ANC camps.

Another witness, Dexter Mbona, who is based in Lusaka and was flown in to testify at the hearings, denied previous allegations that he took part in the beating of inmates.

He was a recording officer at Quattro between 1984 and 1985.

The hearing continues.

# New details emerge of raid on MI

Star 10/6/88

**Political Staff**

CAPE TOWN — Fresh details have emerged in Parliament of the dramatic seizure of Military Intelligence files by a six-man Goldstone Commission team late last year.

Two of the six men were foreign observers — European Community representatives Tom Laidlaw of Britain and Floris Bouma of Holland. But both voluntarily withdrew while the top-secret files were being searched Justice Minister Kobie Coetsee gave fresh details of the raid in Parliament yesterday in response to a question by Conservative Party MP Tom Langley.

## 'Dirty tricks'

The controversial raid in Pretoria led to a top-level investigation into allegations that senior SADF officers were involved in "dirty tricks" campaigns against the Government's political opponents.

Coetsee said the information on the raid on November 11 was given to him by the Goldstone Commission

The six-man team comprised police officers Lieutenant-Colonel H Heslinga and Detective-Sergeant P M van der Merwe, advocate W Sceales of the Pretoria Bar, private attorney P Botbijl and the two EC men

Coetsee said both Brigadier Botha and General Erasmus, in command of the Directorate of Covert Information, were present when the files were seized

"At a certain stage, the legal adviser of the defence force was summoned by the directorate, and a representative of the State Attorney's office arrived

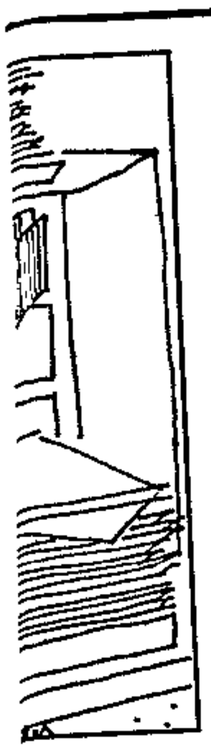
"Advocate J P Pretorius, advocate for the commission, was summoned by Heslinga and reinforcements were requested from the police.

"General le Roux of the police arranged that members of the police employed by MI give their assistance to ensure that no files were removed from the premises."

He said the directorate was "given instructions" by the SADF to give its "complete cooperation"

Coetsee also revealed that when Laidlaw realised the subject of the search was the directorate, he voluntarily offered to withdraw as he felt it would be inappropriate to be present Bouma also withdrew

"The commission emphasises that the foreign representatives in the employ of the commission did not inspect any document or file. They were also not present when interviews were held with the sources or informants of the directorate," the Minister said



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## NEWS IN BRIEF

B/Day 10/6/93

ALMOST 17 000 people had been given indemnity and cleared for repatriation, Justice Minister Kobie Coetsee said in Parliament yesterday By March 24 only 370 applications had been refused (252)

□□□

DRAFT legislation to commercialise the Board for Public Resorts was published yesterday. A memorandum on the Overvaal Resorts Limited Bill said the state would be the sole shareholder of the company, although shares could be sold off later.

□□□

GOVERNMENT did not want to make a final decision on surrogate motherhood now because of the moral, ethical and religious questions it raised, Deputy Justice Minister Sheila Camerer said yesterday The report and draft Bill of the SA Law Commission on the subject would be referred to an ad hoc joint parliamentary committee.

□□□

B/Day 10/6/93

THERE were 296 people on death row on May 25 this year, Justice Minister Kobie Coetsee said yesterday (252)

REPORTS, Political Staff, Sapa

The Journal

G - A&M USI/103/E

Star 10/6/93

# SAP excluded from probes

A Bill that compels the SAP or military policemen to withdraw from investigations into alleged serious offences by security force members was tabled yesterday The Security Forces Board of Inquiry Bill provides for a Supreme Court judge, assisted by an Attorney-General or experienced lawyer, to inquire into any serious offences by security force members. — Sapa

(252)

# PAC leader on false ID charges

Star 10/6/93

By Stan Hlophe

PAC secretary-general Benny Alexander knew he was breaking the law by being in possession of a forged identity document and a forged driver's licence, the Johannesburg Magistrate's Court heard yesterday.

The court was asked to convict Alexander on one count of fraud, one of forgery and two of contravening the road traffic regulations

Alexander pleaded not guilty to all charges

The State alleged he produced the forged documents to a traffic officer in Johannesburg on November 27 1992.

Alexander said he applied for a new identity book in March last year but an incorrect one was sent to him He reapplied and another was sent with an incorrect identity number

"I decided to keep both of them because as far as I was concerned it was better to have wrong identity books than not to have any at all I did not know that they were forged

"When I left for the US in September last year, I sent someone with my two photos to Pretoria to apply for a third one. It is possible that enemies of my organisation intercepted the post and issued me with forged licences in a bid to discredit my name," said Alexander

Moses Mavundla said it could not be proved beyond doubt that his client's intention was to mislead the court, and he should be acquitted

Alexander was acquitted on a charge of overtaking across a solid barrier line

The trial was postponed until June 24 for judgment

● The PAC was yesterday fined R240 for contempt of court and three traffic offences.

Alexander, on behalf of the organisation, said the PAC had missed an earlier hearing because summonses for the traffic offences were sent to the wrong address

# Orange teachers boycott classes

■ **Angry staff demand three months arrears pay:**

Sowetan 10/6/93

**By Bongani Mavuso**

ANGRY teachers at Voice Education Centre at Orange Farm are boycotting classes after the owner, Mr MA Khumalo, allegedly failed to pay their salaries for three months.

Teachers said yesterday pupils were becoming "restless and violent because they want to return to class".

The centre is registered as a private school with the Department of Education and Training, DET Orange Vaal region spokesman Mr W Gravett confirmed on Tuesday.

It comprises a pre-school, four primary schools and two secondary schools. Annual fees are R30 for the primary schools, R35 for higher primary and R40 for the secondary schools.

Teacher Mr Albert Sibanda yesterday alleged that Khumalo told them there was no money to pay their salaries "because the Government was refusing to release the money".

However, DET spokeswoman in Pretoria Miss Kim McEvilly dismissed this, saying: "The responsibility for paying the teachers' salaries lies with their employer".

Attempts to contact Khumalo, a businessman, yesterday and on Tuesday were unsuccessful. When *Sowetan* visited his office teachers said he had left early in the morning "to look for money". Several calls to his office went unanswered.

About 79 teachers are employed by the centre.

They said their salaries ranged between R300 and R1 200 a month and claimed Khumalo spent about R50 000 for the official opening of the centre in March.

# ANC 3 slain at Quattro

Sowetan 10/6/93

■ **Commander admits death penalty was exercised:**

THREE ANC prisoners who were killed for crimes allegedly committed against the organisation were yesterday named at the Motsuenyane Commission into alleged human rights abuses at ANC camps in exile.

The men, their names given as Piper, Mahamba and David Dumela, were executed by the ANC, the commission was told by Mr Gabriel Mthembu, a former camp commander at Quattro camp in Angola. Asked by commission chairman Mr Sam Motsuenyane what had happened to Mahamba, Mthembu replied "I think he was part of those that were given capital punishment by the movement".

Motsuenyane: "Does that mean executed?" Mthembu: "Yes."

Asked for reasons for Mahamba's execution, Mthembu said he had committed crimes "deemed serious" by the movement.

SOWETAN Thursday June 10 1993

service ● DET denies responsibility for school

# Access to legal help for deprived people

Sowetan 10/6/93

By Ismail Lagardien
Political Correspondent

■ **NEW BILL** It provides for law graduates to work among the poor:

(252)

POOR people and those in squatter communities will have greater access to lawyers when a Bill which has been tabled in Parliament becomes law later this year

The Attorneys Amendment Bill also provides for a major incentive for law graduates to work in deprived areas and among poor communities, because of high legal fees, have no access to legal help

Law clinics and community legal work have traditionally never been regarded as adequate training for lawyers and were never a criterion for qualification as attorneys

The new Bill provides for entry to the Side Bar after a period of this "community service" and is aimed at easing the problems of law school graduates who cannot find jobs

When it is enacted, law graduates could, for example, work for two years in squatter communities or the poorer areas of any black township, after which they would qualify as lawyers

They will have to work in these communities full-time There are presently more law school graduates each year than can be absorbed by the legal profession The provisions of the Bill are that law graduates could become lawyers once

● They complete a training programme of at least four months and do articles or community service for at least a year;

● They serve articles for a year and then community service for a year,

● They do community service for two years; and

● They gain five years' experience in an "appropriate" legal practice

A memorandum to the Bill explains that, once it becomes law, it would ensure that "vast numbers of persons who appear in court daily will have the benefit of legal representation".

ial enters fourth week ● Fired after failing to

# Goldstone evidence quoted in Delmas

Sowetan 10/6/93

By Tsale Makam

SOME of the evidence submitted before the Goldstone Commission inquiry into the Boipatong massacre last year was quoted in the Delmas Circuit Court yesterday

The trial, in which 32 Inkatha Freedom Party supporters from Kwa Madala Hostel are facing 45 counts of murder, attempted murder and public violence, has entered its fourth week.

The accused appeared before Mr Justice AJ Smit.The accused have pleaded not guilty Defence counsel Mr Victor Botha yesterday asked the chief State witness, who earlier testified he was among the attackers at Boipatong on June 17 last year, if any police or white men were involved in the attack. (252)

## ■ Conflict in evidence of whites at Boipatong massacre:

Botha said a Goldstone Commission witness, special Constable Xaba of Boipatong, had testified that on June 17 he saw a group of men at his gate. One had shouted "a policeman stays here" and that the group then climbed into a casspir and drove away.

Another resident, Botha said, had testified to seeing white men, some wearing balaclavas, among the attackers.The witness, who may not be identified, said he did not see any white men or police aiding the attackers.

The witness said they had divided into groups during the attack "I do not know about other groups, but in my group there were no policemen or white men helping us". ( Proceeding)

# Probe on abuses at ANC camps told of Olivia Forsyth's detention

B/Day 10/6/93

RAY HARTLEY

SA INTELLIGENCE agent Olivia Forsyth had been imprisoned in the ANC's Quattro detention camp in Angola after officials stopped believing her claim to be acting as a counter agent for the ANC

Former Quattro chief recording officer Dexter Mbona yesterday gave details of Forsyth's espionage work to the Motsuenyane commission of inquiry into alleged abuses in ANC camps

Mbona said that before Forsyth tried to infiltrate the organisation's Lusaka headquarters in the mid-'80s, the ANC had been alerted to her being an agent by a former fellow student.

After joining the ANC, she had been "turned" and sent back to SA as a counter agent, returning to Lusaka later to supply the ANC with information about the impending state of emergency, he said

She had also told the ANC of a government plan to arrest the leadership of the mass democratic movement, destabilise its activities in exile and "release Nelson Mandela in a vacuum", he said

He said the ANC had already known most of that information However, by then it was suspicious of Forsyth and subsequently imprisoned her in Quattro.

Mbona denied that she had been sexually assaulted there and claimed that after being moved to Luanda, she had subsequently "fallen in love with" security department official Rafiloe Mayile.

He was expelled from the security department because of this affair

Quattro camp commander Mountain Kepadise testified that the ANC had banned hunger strikes by inmates at the camp because it regarded people who wanted to commit suicide as cowards.

He said there were no adequate medical facilities at the camp to cope with a hunger strike and camp officials feared that hunger strikers would die of starvation.

Architectural plans had been drafted for a prison to replace Quattro, which was too small and lacked basic prison facilities, Kepadise said.

The planned prison, which was to be built east of the Ugandan capital Kampala with the consent of the Ugandan government, would have included "a tennis court, a football field and a volleyball court" in keeping with modern prison standards.

Kepadise said he had received reports that Quattro inmate Brendon Sampson had been beaten up for killing six pigs and had earned the nickname "porko", or pig, as a result.

The guards had subsequently been punished for breaching camp rules by assaulting Sampson, he said

Mbona testified that about half those at the ANC's Pango camp, also in Angola, had been found to be involved in "illicit dealings", including in drugs. A similar situation existed at other ANC camps, he said.

# State closes case in minibus plunge trial

Star 11/6/93.

By Montshiwa Moroke (252)

The State has closed its case in the trial of two former Sanlam agents who are facing five counts of murder, three of attempted murder and 13 of fraud in the Middelburg Circuit Court

Isak "Kobus" Kruger (27) and Lucas Loubser (31) have pleaded not guilty before Mr Justice T T Spoelstra and two assessors

The two are being tried in connection with the deaths of five people to whom they had promised jobs

The men died when a minibus in which they were travelling plunged 30 m down a ravine. Loubser was allegedly the driver of the vehicle, but was not in it when it went down the embankment near Witbank and burst into flames on January 19 1992.

It is alleged that life insurance was taken out in the victims' names, with Kruger and Loubser named in the policies as beneficiaries.

Loubser said under cross-examination that he had fetched the minibus from a garage in an unroadworthy condition on the morning of the crash.

Later that day he had worked on the engine before undertaking the planned trip to Pietersburg

Loubser said he had sprayed the windows of the minibus white with an aerosol spray for security reasons as the minibus would be used for selling clothes He did not want the goods to be visible from outside and thought passengers would be able to see from inside the vehicle.

He admitted the windows would not open because of the aerosol spray and that the doors would not open because the inside handle had been removed as a result of a fault in the door.

The prosecution put it to him that with all that and a wooden partition placed between the front seat and those in the back, the men had been cut off from the outside world.

The hearing continues

# Quattro not 'as harsh as they claim'

Weekly Mail Reporter

MEMBERS of the African National Congress' controversial security department mounted a counter-offensive at the Motsuenyane Commission of Inquiry this week, disputing charges of human rights abuses and torture in ANC prisons — and, in particular, the Quattro camp in Angola.

One such member was Mthunzi Mthembu, the first commander of Quattro, currently a member of the ANC's intelligence directorate and one of the most highly trained staffers in the organisation. He denied physical punishment had been used in Quattro and claimed to know of only one execution — that of Kenneth Mahamba, a camp commander in Kibashi who was "instrumental in poisonings in the camps and who later confessed he was a government agent".

In an interview with *The Weekly Mail* after he had given evidence at the inquiry, Mthembu said the key reason for the establishment of the camp was the need to crack down on infiltration by South African government agents. The poisoning of ANC members and the precise bombing of camps suggested that the government was getting information from within the ranks of the organisation.

Mthembu said the government also used agents to provide free dagga to soldiers, so as to create a "dependency syndrome" which would make them disobey orders and regulations.

The assassination of ANC leaders was the immediate spark for the creation of the prisons, he added. After a joint meeting of the ANC's national executive committee, military leadership and intelligence department, Quattro was established in the late 1970s. The main purpose was to re-educate informers and to help them to be accepted by other members of the ANC.

Mthembu said camp inmates had been subjected to "third degree" interrogation, which made use of psychological pressure. Subjects were intensively questioned and deprived of rest. Smokers were denied cigarettes. But, he insisted, "no physical punishment was ever used to get information. In a military sense a wise general would not kill a soldier."

Conditions in Quattro, he said, were not ideal, but were not as harsh as the state witnesses contended.

WM 11/6 - 17/6/95

human resources manager [illegible] Marcus and student Emily Ngubane.

Picture: ROBERT BOTHA

# Fedlife 'broke all the rules'

B/Day 11/6/93

Own Correspondent

CAPE TOWN — Life assurer Fedlife broke every investment rule by placing funds in Club Mykonos Langebaan (CML), said Hendrik Klem SC, leading evidence at the Masterbond commission.

Klem said yesterday no credit checks were conducted on potential investors or on the underlying asset — the property at CML.

In addition, Klem said, all the funds were placed in a single investment and the "loan" by Fedlife was unique in that there was no underlying security against investor default.

An endowment policy, which was part of the security, had almost no value in the first year.

The property equity participation scheme provided investors with a R200 000 "loan" from Fedlife for every R100 000 individual investment, and these funds were all placed in CML.

The product was terminated in May 1991, by which time Fedlife had been instrumental in placing R27m in CML — R18m from its own resources and a further R9m through investors.

Klem said Fedlife assistant GM, investments, Denis Paizes' damning report on the product was subsequently "overruled" by the marketing division at Fedlife.

Paizes, in a letter to GM, investments, Ian Frazer, in November 1990, said the product was "high risk" and added "we would not place funds in a single equity investment even if it was an Anglo American property".

Fedlife actuary Andy McGinn, who designed this product, said in evidence yesterday the product was introduced to IPC insurance brokers at a conference in late October 1990 and was still subject to approval by Fedlife.

However, senior manager, marketing, Albert Voigt, contradicting McGinn, said he understood the conference to be the launch and "it was all systems go from there".

Klem said sales began immediately after the conference, with no apparent authority from Fedlife.

Frazer told the commission he and Bernie Goldman, GM marketing, "were sucked into giving approval" to this scheme at the end of November 1990.

Frazer continues giving evidence today.

Star 1/6/93

# Warrant out for former policeman

(252)

Johnny Mokaleng, the former policeman who last year alleged that police had killed political detainees and buried them in secret graves in the western Transvaal, is to be charged soon with fraud and defeating the ends of justice.

A warrant for Mokaleng's arrest was issued on May 12, but he has not yet been found, police said. They believe he has left the country. — Crime Reporter

# Minister dismisses need for law on TEC

CT 11/6/93 (252)

**Political Staff**

A TRANSITIONAL Executive Council (TEC) could be installed without having to wait for legislation to be passed which might delay negotiation, the Minister of Constitutional Development Roelf Meyer, said in Parliament yesterday

This would be possible if all parties at negotiations agreed, Mr Meyer said in debate on the Constitution Amendment Bill which provides for the abolition of the President's Council

Mr Meyer told Parliament the TEC would function as soon as agreement was reached at negotiations, hopefuly by June 25, but the ANC later threw doubt on this idea

A spokesman said the ANC was concerned as to how the government would be forced to implement decisions of the envisaged TEC if it was not bound by legislation

Mr Meyer said a lot of legislation concerning transition would be tabled in Parliament in the next few months The legislation could not be debated in the present session of parliament as it had to be the product of consensus at negotiations

Mr Meyer said he believed a special Parliamentary session was not necessary to give legal effect to the TEC

# Making it legal

Wmail 11/6-17/6/93

By IAN CLAYTON

A NEW Bill, which is likely to be passed by parliament this month, will enable law students to use full-time work in community-based legal clinics as part of their qualification requirements to practise as attorneys.

The incentive could encourage law graduates to work in rural and deprived areas, at least until they qualify as attorneys. The Attorneys Amendment Bill could also result in the law becoming more accessible to poorer communities.

(252)

The Department of Justice said in a memorandum attached to the Bill: "The Bill will not only ensure that legally qualified persons will more readily be able to be admitted to the attorneys' profession, but also that the vast numbers of undefended persons who appear in courts daily will have the benefit of legal representation by means of the proposed performing of community service."

The measure is likely to be a boost to work pioneered by the Legal Resources Centre, Laywers for Human Rights and legal clinics.

The Bill could also ease the problems of law graduates who have degrees but who have been unable to find jobs as articled clerks.

# New hope in Goniwe inquest

W/Mail 11/6-17/6/93.

By LOUISE FLANAGAN **Port Elizabeth**

THERE is renewed hope that the government may make disclosures on its "dirty tricks" operations following the unexpected postponement of the Matthew Goniwe inquest this week.

(252)

In a surprise move, the request for postponement came from the South African Police SAP counsel Doep de Bruyn (SC) said this was because of "unforseen circumstances".

While De Bruyn would not give reasons for his request, he hinted that the inquest could be speeded up. "While we stress that no undertakings can be given and while we do not wish to raise any hopes, the intention is to sincerely endeavour to facilitate the whole matter and to see if it cannot be expedited," he said.

The postponement — until Monday — was not opposed by other parties represented at the inquest and there were hints from counsel for the South African Defence Force and from the attorney general's office that it might expedite the inquest.

Lawyers at the inquest were tight-lipped, but there is hope among observers that new information on the case will emerge or that admissions will be made.

The government and SADF have come under great pressure at the inquest. Damaging secret documents relating to clandestine SADF operations in the eastern Cape during the mid-1980s have come to light, and securocrats who gave evidence contradicted themselves and had difficulty explaining the reference to Goniwe's "permanent removal" in the disputed military signal

So far there has been no attempt by any senior government official to challenge the validity of the documents — either the military signal which referred to the "permanent removal" of Goniwe weeks before his murder or the Operation Katzen file, handwritten by Military Intelligence chief General Joffel van der Westhuizen, which planned a jail break and a coup attempt.

The Katzen documents, released by key inquest witness Colonel Lourens du Plessis at the last inquest session in March, were met at the time by a deafening silence from the government.

The first indication that the state might be considering admitting responsibility for "dirty tricks" and possibly the Goniwe murders came on June 1. Justice and Defence Minister Kobie Coetsee told parliament the eastern Cape had been destabilised at the time Operation Katzen was proposed and that anyone with the interests of the country at heart would have come up with a plan to stabilise it.

This was the first official suggestion that Katzen was indeed an official military operation.

Days later Coetsee, as Minister of Justice, granted Du Plessis indemnity. Du Plessis was indemnified against prosecution in respect of the controversial military signal but not in respect of Operation Katzen.

Indemnity was granted when President FW de Klerk overruled the indemnity board's recommendation that Du Plessis should not receive indemnity. While De Klerk clearly could not afford to refuse Du Plessis indemnity in the current political climate, the partial indemnity seems to be an attempt at damage limitation. — Ecna

# News briefs

## Board appeals to the public

Sowetan 11/6/93

THE Independent Board of Inquiry, whose aim is to investigate the disappearances of political activists and has among its members leading South Africans from various fields, is appealing for information about people who have gone missing in political circumstances.

It wants to hear about people who have been detained and never been heard from or seen again, community activists who had gone missing in mysterious circumstances and people who had left the country and never returned. If you have any information, please write to the IBI at PO Box 32293 Braamfontein 2017, Johannesburg, or telephone (011) 403-3256/7 (252)

officers at Motsuenyane Commission

# Not ANC policy to assault prisoners — commissar

Sowetan 11/6/93

**Sowetan Correspondent**

**■ Camp chief denies suspects were beaten:**

A FORMER camp commissar in one of the ANC detention camps in Angola yesterday told the Motsuenyane Commission into alleged human rights abuses in exile that it was not policy to assault prisoners (252)

This included those who had even attempted to kill the organisations' leaders

Mr Mountain Kepadise, who was commissar at Quattro between 1983 and 1985 denied that F1 Siphumzi (codename), who had allegedly attempted to assassinate Mr Chris Hani and Mr Joe Modise, was ever assaulted.

Siphumzi had allegedly tried to detonate a handgrenade in the presence of the two ANC leaders.

Kepadise denied allegations of assault made against him and also rejected claims that ANC prisoners at a camp in Uganda were fed dogfood.

In earlier evidence, an ANC security chief, Mr Dexter Mbona, gave an insight into the life in Lusaka of the alleged double agent, Miss Olivia Forsyth

He told the commission that before Forsyth tried to infiltrate the ANC's Lusaka headquarters in the mid-80s, the organisation had been alerted to her being an agent by a former colleague at Rhodes University.

# Kasrils in bid to clear his name

Star 11/6/95

By Mokone Molete

ANC and SACP leader Ronald "Ronnie" Kasrils yesterday made an unscheduled appearance at the Motsuenyane Commission of Inquiry — his second — saying he wanted to clear his name.

Kasrils, who was not on the list of people who were due to testify at the commission set up to investigate allegations of human rights abuses in ANC camps, said he wanted to clear his name following the findings of the Douglas Commission as well as an editorial which appeared in the Sunday Times.

The Douglas Commission had found that Kasrils had taken part in the detention of 14 MK cadres who were held in a basement detention centre in Kibashe, Angola, in 1978.

Kasrils said he had had nothing to do with the 14. He produced affidavits from four of the former inmates — Ben Lekalakala, Mandla Daka, Meshack Phewa and Victor Ngwenya — clearing him of any involvement in their incarceration.

Kasrils said Douglas's judgment had been impaired by his dislike for the ANC and his "anti-communist phobia".

Referring to an editorial in the Sunday Times and a column written by its editor, Ken Owen, Kasrils said Owen was guilty of similar fears.

He had complained to the Media Council, which had obliged the newspaper to publish a letter he had written to Owen. The letter had been published earlier in an abridged form —

# Kasrils claims no part in 'torture'

RAY HARTLEY

ANC national executive committee official Ronnie Kasrils yesterday denied allegations that he had pumped diesel fumes into a detention cell holding 14 people in the ANC's Quibaxe camp in Angola.

Testifying before the Motsuenyane commission into alleged abuses in ANC camps, Kasrils said he had played no part in the sentencing or detention of the 14 as he was sent to the camp to "give political lessons to the comrades there". B/Day 11/6/93

He told the commission, sitting in Johannesburg, that the diesel engine, from which he was alleged by the Douglas commission to have pumped fumes into the cell, was in fact located about 60m away from the cell.

The Douglas commission, which released its report early this year, was appointed by the International Freedom Foundation to examine alleged abuses in ANC camps. (252)

He said he had received affidavits from four of the 14 inmates and the chairman of the tribunal which sentenced them, attesting to his innocence of any abuse. Three of the affidavits were formally lodged with the commission.

He accused the Douglas commission of making several untrue statements about him. It was incorrectly stated that he had headed up MK special operations.

He said Sunday Times editor Ken Owen had subsequently accused him of imprisoning the 14 detainees in "the black hole of

☐ To Page 2

☐ From Page 1

# Kasrils

B/Day 11/6/93

Calcutta" and had described him as the "groot krokodil" of Quibaxe. This had created the incorrect impression that he was "some kind of authoritarian bully boy" in the mould of former President P W Botha, he said.

The judgment of the Douglas commission had been clouded by "anti-communist phobia", he said. (252)

Earlier, former Quatro staff commander Golden Rahube said he had witnessed several beatings of inmates, including torture using the "pompa" method, which led to complaints from inmates of damaged eardrums. Guards had been forced to do "fatigues" as punishment for abusing prisoners, he said. The punishment involved strenuous military exercises.

Guards had been given "a constant message that you are here to guard, not to become sadists", Rahube testified. He had once been called in by the camp's administration after hitting two friends out of frustration when they fell foul of the ANC.

He said late ANC chairman Oliver Tambo had been misquoted as describing Quatro as "one camp we can do without" during a 1987 tour of the camp.

Rahube, who had also served at Viana camp in Angola, said two metal containers, each with five small windows, had been used at Viana as detention barracks for those connected to offences such as dagga abuse, theft and rape. A man had died in one of the containers while about 250 soldiers mutinied in the camp.

● Picture: Page 3

# Parliament to debate resumption of hanging

Star 12/6/93

BRENDAN BOYLE

CAPE TOWN — Parliament is to debate whether to bring back the noose after a three-year moratorium on hanging, a parliamentary spokesman said yesterday. (252)

Peter Pretorius said most of next Thursday would be set aside for debate by the nation's white, coloured and Indian legislators on whether to lift the moratorium.

The announcement was condemned by the ANC and human rights activists as a vote-catching gimmick ahead of elections expected in April.

President de Klerk, who halted executions in February 1990, announced earlier this year that he would call for a debate on hanging in Parliament

## Murder

"The wave of cruel murder and homicide, the current disrespect for human life and the delays in the negotiation process are making it extremely difficult for the Government to let the moratorium continue indefinitely," he said at the time

Apart from political violence, which has claimed an average of five lives a day this year, South Africa has one of the highest murder rates in the world More than 20 000 people were murdered last year — a rate of one every 26 minutes

Most of the murder victims, and almost all of the 1 346 people executed since 1978, have been black

"This is a cynical and undemocratic exercise by De Klerk with no other purpose than party-political gain They are playing with people's lives for the sake of a few votes," said ANC spokesman Carl Niehaus

He said the ANC, which opposes the death penalty, would use every possible means to prevent the resumption of executions before the country's first all-race election.

"This discredited and unrepresentative Government has no right to decide on an issue of this importance, certainly not when we are on the brink of an agreement on the transfer of power to a democratic majority," he said

Lawyers for Human Rights spokesman Andries Nel said about 300 people, almost all of them black, were currently under sentence of death About 60 of them are believed to have exhausted all avenues of appeal

"It is completely unacceptable for this unrepresentative Government to take a decision like this on what is literally a matter of life or death The Government is simply pandering to the fears of its white constituency," he said.

Nel said that if hangings resumed, South Africa would almost certainly face renewed foreign pressure and protest campaigns by organisations such as Amnesty International

South Africa executed 1 346 people in the decade up to the moratorium. Hangings on the Pretoria gallows, which can kill seven people at a time, peaked in 1987, when 167 people were executed in regular sessions on Tuesdays and Fridays.

The last person to die on the gallows was Solomon Ngobeni, on November 14 1989 — Sapa-Reuter

# MPs to vote on hanging

By NORMAN WEST S/Times
Political Reporter 13/6/93

PARLIAMENT will end the present session on a controversial note — with a vote on the return of judicial hangings

The majority of the 308 MPs are expected to vote in favour of hanging when the "hanging Bill" comes up for a decision this week or, at the latest, next week (252)

The National Party has no official policy on the death penalty and members will be allowed to cast individual votes according to their conscience, but it is known that President de Klerk can depend on a "yes" vote by most of his Cabinet ministers — including Minister of Justice Kobie Coetzee, Minister of Law and Order Hernus Kriel and Minister of Correctional Services Adriaan Vlok.

The Conservative Party and the Afrikaner Volksunie parties are also in favour of the death penalty and, in the case of the CP, members will all vote for the return of capital punishment as a matter of policy and in terms of a CP caucus decision

The Democratic Party and the Labour Party have no official policy and will allow a free vote

DP information spokesman Peter Soal said he expected most of his colleagues to vote against the restoration of hanging

All major extra-parliamentary parties, including the African National Congress, the SA Communist Party, the Pan Africanist Congress and the Inkatha Freedom Party are against capital punishment

A Justice Ministry spokesman confirmed the vote was likely to be placed before Parliament next week

# New Bill could end grave legal scandal

S/Times 13/6/93

By CARMEL RICKARD

A NEW Bill before parliament — plus R60-million — could end one of the country's most serious legal scandals: that 100 000 people are jailed every year after trials in which they have no legal representation

If the Bill is accepted, hundreds of candidate attorneys will be able to serve their "internships" as part of a planned country-wide network of Public Defender's offices, appearing for people unable to afford legal defence (252)

Once the law is passed, an estimated R55-million to R60-million will be needed to set up Public Defender's offices across the country, staffed by senior lawyers who will supervise and train candidate attorneys opting to do articles through the offices

## Options

The draft legislation tabled in Parliament this week changes the requirements for entry to the attorney's profession. Until now the only path to the profession was through serving "articles of clerkship" with a legal firm

For a number of reasons, including the poor economy, up to half the current crop of law graduates cannot find articles and are thus kept from qualifying

The new proposals allow candidate attorneys a wider range of options to serve their "internship" If Parliament accepts this Bill, which has the backing of the organised legal profession, it will enable many more graduates to enter the profession.

One of the options offered to candidate attorneys is to serve one or two years in "community service", with an institution accredited to the local law society.

The Director of the Legal Aid Board, Mr Nic Pretorius, said he believed so many law graduates would opt for "community service" the board would have no difficulty in employing the 600 candidate attorneys necessary to run a country-wide operation

The board is still looking for funds to staff and run the offices However, Mr Pretorius hopes the good work being done by the pilot project in Johannesburg will help convince donors the money would be well spent.

Government, overseas donors, local corporations and even the board's own resources are all being eyed by Mr Pretorius as possible sources for the R60-million needed to extend the scheme across the country

Only about 12 percent of accused who appeared in the district and regional courts last year were represented

There are not enough qualified lawyers to handle all these cases, and at the same time hundreds of would-be attorneys leaving university each year are unable to enter the profession

The proposed new legislation seeks to solve both problems at the same time

# Grillings at SABC board hearings land Judge Mahomed in hot water

By CARMEL RICKARD

THE wisdom of appointing judges to chair committees and commissions outside their duties on the Bench has come under the spotlight in Parliament.

The issue was raised by Justice Minister Kobie Coetsee, this week, who said it might be time to draw up guidelines for such appointments S/Times

He was glad judges were so often asked for help because this would promote a rights culture However, the country's Judges-President had expressed disquiet, saying such appointments put judges in a difficult situation.

13/6/93

## Critical

Mr Coetsee praised Bethal MP Christiaan de Jager for an apparent critical reference to Mr Justice Ismail Mahomed.

The judge, co-chairman of the SABC board selection panel, has been criticised by National Party members for his questioning style, particularly when cross-examining former board chairman Christo Viljoen

The minister said everyone should heed Mr de Jager's comments that judges should remember they were judges, regardless of the capacity in which they acted When judges chaired commissions, they should carry the culture of the Bench with them and act with dignity and independence

MR JUSTICE MAHOMED
His style criticised

(252)

Mr Coetsee said the Judges-President raised the problem that judges appointed to head commissions were not protected by the privilege of the court and were exposed like anyone else to risks, challenges and provocation

## Political

When Mr de Jager interjected that judges should not be used to "solve political problems", the minister said that perhaps the time had come to draw up guidelines to help those who relied on judges to give status to certain situations

Reports by CLAIRE ROBERTSON

# Broken children of Camp Quatro

S/Times 13/6/93

**"ALL RISE," the Harvard Law graduate intoned at the start of Thursday's session of the Motsuenyane commission into allegations of torture and beatings at ANC prison camps.**

"All lies," whispered an ANC Security Department official from the gallery

This was the atmosphere this week when the children of Quatro came forward for the first time to answer three weeks of allegations that for more than a decade inmates of their dreaded prison camp were beaten, ill-fed and subjected to sadistically inventive torture.

Camp commanders, commissars and senior officials refused to take the rap

Although many were specifically named by former Quatro inmates as having interrogated, beaten or tortured them, not one of the men who ran the camp admitted to having laid a hand on a prisoner

All said, however, that they received reports "from time to time" of abuses and reprimanded the guards involved as it was "strictly forbidden to lay a hand on prisoners"

The abuses they admitted to knowing about ranged from the dreaded Pompa torture — bursting the eardrums by slapping the victim's inflated cheeks — to using impolite language to an elderly inmate.

They denied knowing about most of the other torture methods, and accused the former inmates of having fabricated these.

One man mentioned time and again by former inmates as having had a particularly childishly imaginative line in torture — "Griffiths" — and whose name featured in the testimony of the camp officials, will not be testifying.

He is busy with exams at Kampala University in Uganda.

## Vampires

Griffiths was accused by, among others, Mncedisi Hlongwane, head of the Returned Exiles' Committee and the man spearheading the campaign to have the ANC held accountable for the alleged abuses.

In his testimony, Mr Hlongwane — who invariably refers to the "blood-sucking vampires of the ANC" and who accused Mr Nelson Mandela of being a "psychopathic liar" — described the following encounter with Griffiths:

"He forced me to take off all my clothes then he poured fish oil all over my body Then he spread red ants over my head."

Under cross-examination, Mr Hlongwane was grilled by Cape Town human rights advocate Siraj Desai about a minutely detailed account of the whereabouts, habits and offices of Port Elizabeth security policemen that he had written out for his Quatro interrogators, who believed him to be a police spy

"It was very difficult for young children to look after enemy agents like these," Umkhonto we Sizwe commander Joe Modise told the commission

Prominent businessman Sam Motsuenyane chairs the commission. The two other members are Zimbabwean barrister David Zimchiya and retired Boston Judge Margaret Burnham, who this week put in a nutshell the task of the commission — "Something fell through the cracks and it's our job to find out"

The "something" is the allegedly brutal treatment meted out to inmates of Quatro and other camps, and the fact that about a dozen people at least were held for four years without trial or tribunal.

The cracks were in the ANC structure as Quatro was virtually ignored by the exiled leadership in Lusaka for more than a decade until horror stories of torture, death and misery began to filter out and the hunt was on for who was responsible.

Candidates include the Security Department which established Quatro as an emergency measure to cope with growing infiltration of ANC ranks by SA agents, Umkhonto we Sizwe, the department's parent division, or, favoured candidate of the army, the Justice Department, which did not carry out its duties in regard to the camps.

Several of the men who testified before the commission this week were teenagers when they took command of the camp

Quatro was hot, riddled with disease and death — both from malaria and Unita attacks in the area — and always short of food and water The nearest hospital was 100km away

## Requisitions

"From time to time we would make food requisitions. It was explained to us that we were a liberation movement — we don't have all the resources," said Pro Mahope, 32, camp commander from 1985 — when he was 24 — to 1987

"We wrote reports pointing out that we must transfer or upgrade. At Quatro the roofs were too low, the ventilation inadequate," he said.

When plans to upgrade were accepted, these were hampered by lack of money and machinery

Mr Modise was "busy at the front" and anyway, he pointed out, the camp was not set up by him, nor did he appoint the commanders. Quatro had been established by then head of security Mzwandile Piliso — one of the more prominent ANC members charged with responsibility for the camp abuses.

For four years a group of men and women, alleged mutineers, were held in Quatro without trial or tribunal. According to testimony before the commission, they were subject to almost daily beatings and torture.

Other prisoners comprised suspected "enemy agents" and cadres guilty of other crimes such as dealing in dagga, theft or rape.

One man could have ameliorated conditions and brought the mutineers to trial — but he never visited Quatro

He is Zola Skweyiya, then so-called chief justice of the ANC. Mr Skweyiya gave the commission several reasons for this:

His visit would have been regarded as interference by some ANC officals; there was a lack of money — and it was dangerous to visit the war-torn area.

Outside the commission hearings, ANC security officials contemptuously accused him of having been "too scared"

Mr Modise pointed out that members of non-military departments managed to visit Quatro, and that although Angola was a country at war, other departments — such as the Publicity Department — still managed to operate in the country

There was never a point at which the situation in the country changed to the extent that other departments were unable to visit the camp, he said.

"I do not know why it was so difficult for Comrade Skweyiya to get to the camps," he said.

"Some of the evidence given by comrade Zola Skweyiya is not true. He had personal reasons for this," said Mr Rahope.

"We had always known there was an office of justice in Lusaka — but we never saw them," the commission heard from Bob Sethunsa, recording officer at Quatro in 1987 and '88, then aged 26.

## Abuses

One of the abuses Mr Skweyiya would have learned of, had he visited, was that former inmates had been made to pull a 1 000-litre water tank from a river to the camp — while being beaten.

Commanders and commissars concurred that inmates had to pull the water tank after a tractor supplied for the purpose broke down.

"This was not a measure of barbarism — it was conditions forced on us," said Mr Rahope.

It was the practice at Quatro to give inmates ugly nicknames when they arrived. For many this would be their third name — after the one their parents gave them, and their MK *noms de guerre* These nicknames included Pig and Tits.

But this was merely in the "tradition of a dry sense of humour," said Sizwe Umkhonto, also known as Gabriel Mthembi, 33, first commander of Quattro from 1979 to 1982. He was 19 when he took charge.

This week deputy secretary general of the ANC Jacob Zuma will testify on the so-called "missing inmates" who have yet to be accounted for

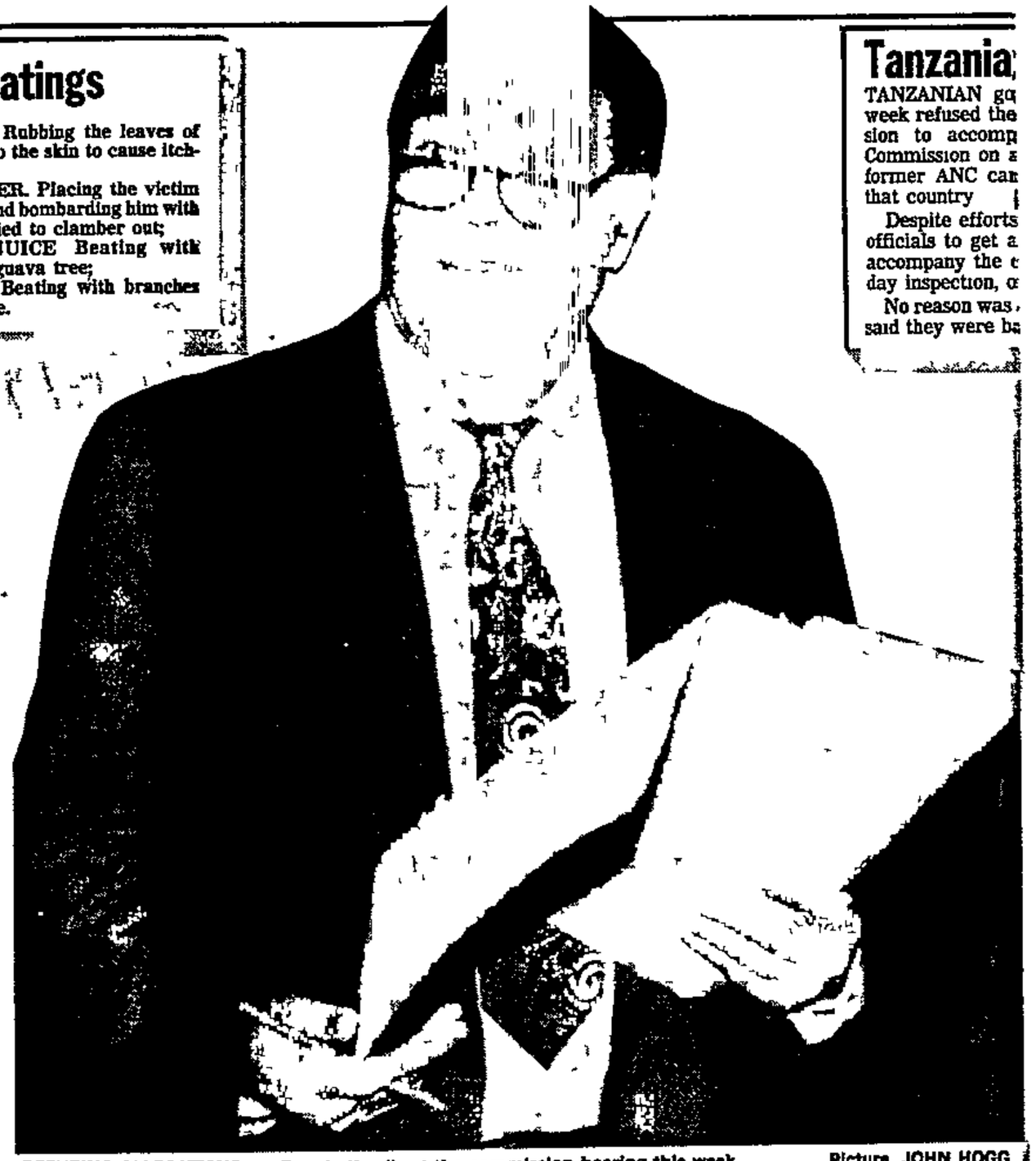
The commission is expected to sit for the next two weeks, and present its findings in mid-July

JACOB ZUMA

JOE MODISE

PILISO MZWAI

ZOLA SKWEYIYA



REFUTING ALLEGATIONS . . Ronnie Kasrils at the commission hearing this week

Picture. JOHN HOGG

## Gasmasks, napalm and beatings

THESE are the seven torture methods alleged to have been most popular at Quatro camp

- POMPA. Forcing a victim to puff out his cheeks, then beating him until his eardrums burst,
- GASMASK. Forcing half a pawpaw on to the face of the victim, blocking nose and mouth,
- BEIRUT Beating with sticks;
- NAPALM. Rubbing the leaves of toxic plants into the skin to cause itching;
- SLAUGHTER. Placing the victim in a deep hole and bombarding him with stones as he tried to clamber out;
- GUAVA JUICE Beating with branches of a guava tree;
- COFFEE Beating with branches of a coffee tree.

## Tanzania

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# 'ANC security chief blocked my probe'

C/Press 13/6/93

By ZANELE VUTELA

ANC justice officer Zola Skweyiya this week told the Motsuenyane Commission probing irregularities in ANC detention camps that his efforts to visit Angola to check whether the ANC was holding prisoners there had been repeatedly frustrated by the ANC's former security department head (252)

However, senior ANC security officer Golden Ruhabe told the commission Skweyiya was using personal differences with individuals to discredit the security department

Skweyiya, appointed in 1985 to check that no person in ANC custody was "treated in a cruel, inhuman or degrading way", said he needed permission from the security department to visit Angola

He had approached the head of security in 1986, who told him he would "get no co-operation" He was even threatened with arrest

Between 1985 and 1987 he had, among others, been asked by Chris Hani to set up tribunals to ensure that people arrested or detained were charged as soon as possible

He eventually managed to visit Angola in 1987 when the security department had new leadership He only spoke to a few people who had been arrested at Vianna, near Luanda He first heard the name "Quattro" when he read about it in the papers after 1990

Ruhabe, former commander of Quattro, said that by 1987, after ascertaining that some of the mutineers held since 1984 were not enemy agents, he had made a formal recommendation that they be released

During Tambo's visit to Quattro in 1987 he had requested that a tribunal be set up as soon as possible. In 1988 he motivated this to the ANC's NEC The first tribunal sat in April 1988

Another former Camp 32 commander, Mountain Kepadise, testified that he went to Lusaka several times to request that a tribunal be set up, but was told that the legal department was busy

Political comment and newsbills by K Sibiya, headlines and sub-editing by B Keswa, both of 2 Herb Street, New Doornfontein, Johannesburg

# Housing conmen land in court

TWO alleged conmen, exposed in City Press as having ripped off homeless people in elaborate housing scams involving millions of rands, appeared in court in separate trials this week

Ronald Francis of Invesco International made a brief appearance in the Johannesburg Regional Court on Monday on charges of fraud and theft of housing deposits which could involve as much as R2-million C/Press 13/6/93

Francis's hearing was postponed to June 21 for trial His R1 000 bail was extended

In the second case, Pieter Sekhonyane of Ka-Mohau Enterprises appeared in the Vereeniging Regional Court on charges of theft and contempt of court.

He was not asked to plead and he will appear again on July 13 Sekhonyane remains in custody

The Vaal church minister was arrested in May after failing to make payments in terms of a court order to refund stolen housing deposits

According to a orderby the Vereeniging Regional Court in February, Sekhonyane's seven-year jail term was suspended to enable him to repay the 40 victims from whom he had stolen over R93 000

Sekhonyane failed to pay and was arrested on the contempt of court charge (252)

Anyone who lost money to Sekhonyane and who has not yet laid a charge should contact Sgt Letseleha at the De Deur Police Station (016) 90-1070

# SA turns down UN conference invitation

ARG 14/6/93

THE South African government has turned down an invitation by UN Secretary-General Boutros-Boutros Ghali to attend a nine-day human rights conference in Vienna.

"As South Africa is denied participation in the activities of the General Assembly, it would be premature to seek to take part in meetings arranged by that body," Foreign Minister Pik Botha said at the weekend.

The World Conference on Human Rights in Vienna, which starts today, is being held under the auspices of the UN General Assembly.

Mr Botha said he had received official invitations from the UN Secretary-General and from his Austrian counterpart

"But the goverment has decided not to attend," he said.

When South Africa's position in the General Assembly changed in future "South Africa will be in a position to take part in meetings . without becoming embroiled in a controversy on the very question of participation", said Mr Botha.

But he called on participants, especially the advanced industrial democracies, to display sensitivity and understanding for the problems facing developing countries, in order that the highest degree of consensus could be achieved at the human rights conference.

He said human rights were too important to fall victim to political differences.

He also said South Africa had made great strides in human rights, citing the proposed draft Bill of Fundamental Human Rights for inclusion in the new Constitution.

Human rights, Mr Botha said, would form the cornerstone of relations between government and individual citizens in the new South Africa. — Sapa.

China tries to gag

# Mystery gunmen in video

Sowetan 14/6/93

■ New turn in Tokoza shooting:

By Joshua Raboroko

POLICE will not take immediate steps in connection with the shooting at Tokoza hostel three weeks ago when ANC marchers clashed with IFP supporters (252)

Police video footage submitted to the Goldstone Commission has revealed that it was a mystery group of gunmen that sparked the bloody battle which led to fierce fighting that left more than 70 people dead

Evidence led to the commission revealed that mystery gunmen armed with automatic rifles fired from the back of the hostel at precisely the moment the ANC marchers reached the front of the complex in Khumalo Road

The raid served to fuel hostel dwellers' fears that they were being attacked by ANC marchers

Reports at the time were that the shooting was started by either the ANC or IFP The footage has given credence to assertions that there was a "third force" operating in black areas

Major Eugene Opperman said yesterday that the police would wait for the commission to complete its enquiry before taking action

Star 14/6/93

# MK chief 'saved man's life'

By Mokone Molete

Umkhonto we Sizwe (MK) commander Joe Modise saved the life of a would-be assassin when an attempt on his life and that of Chris Hani failed, the Motsuenyane Commission heard on Friday.

Giving evidence before the commission, which is investigating alleged human rights abuses in ANC camps, Modise said another would-be assassin was immediately shot by his bodyguards.

He told the commission: "I immediately stopped the young people, MK soldiers (from manhandling the other would-be assassin). I told them the only way to deal with the matter was to set up a proper tribunal where the suspect would be tried."

The event took place in 1984.

Referring to a mutiny in two ANC camps that year, Modise said a tribunal was set up to try the mutineers. As this did not form part of his responsibilities, he could not explain why they were never tried. (252)

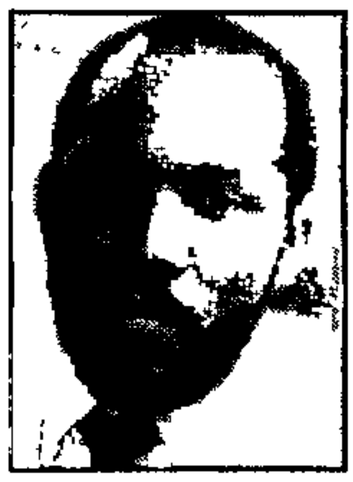
He denied earlier evidence before the commission that he sent cadres into South Africa to buy him expensive shoes.

● The commission went to Tanzania at the weekend.

# *focus on* Farmworkers

Sowetan 14/6/93

The introduction of the Basic Conditions of Employment Amendment Act saw South Africa's farmworkers accorded privileges that had been denied them for decades. But the Act, argues **Mzimasi Ngudle**, does not go far enough:



252

**Farmworkers ... fighting for basic rights**

As THE farmworker whets his scythe to reap the fruits of the new labour law, an irate farmer vows to balk at the gains secured by trade unions. May 1 saw the extension of basic rights to farmworkers by the introduction of the Basic Conditions of Employment Amendment Act (BCEAA) Thousands of farmworkers employed by more than 60 000 farmers countrywide are now entitled to rights like paid sick, maternity and annual leave, maximum working hours and so on.

The Act makes no provisions for minimum wages or the right to strike. While trade unions heralded the Act as the first positive step towards the extension of labour rights to farmworkers, strong opposition from the farmers has since emerged

Eight farmworkers in Zeerust have been dismissed for attempting to enforce their new rights The president of the Transvaal Agricultural Union, Mr Dries Bruwer, has stated that his constituency will not implement the Act

The South African Agricultural Union (SAAU) is now busy negotiating with the Government for a unique labour legislation that would cater specifically for farmworkers "We decided that we would in future negotiate only on a basis of a single, amended act on labour legislation of farmworkers," SAAU president Dr Boet Fourie said He argues that present labour legislation is not suited to meet the needs of the farming industry

Neil Coleman, spokesman for the Congress of South African Trade Unions (Cosatu), says· "There is no principled objection to a labour legislation designed to cater specifically for farmworkers " Provided, Coleman says, the farmworkers are not deprived of the rights enjoyed by other workers.

It may be that such legislation is indeed desirable to meet the exigencies of the farming industry However, the history of South Africa's labour legislation does not tally with this view It was only after the recommendations of the Wiehann Commission that a black worker was statutorily recognised as an employee

Even then farmworkers were left out in the cold with no statutory protection against abuses Widespread exploitation and racism, often resulting in deaths, occurred in various parts of the country It is not so much the contending interests of capitalism and trade unionism that instigate concern

It is the farmers' reluctance to part with years of cheap or free black labour which earned them huge profits Farmers profitably exploited loopholes opened by the denial of rights now extended to farmworkers The Act itself is still in its infancy and therefore too early to assess its pros and cons

Nonetheless, it transpires that the noblest of intentions (if any) it was meant to serve are being stifled by the prejudice and intransigence of the conservative agricultural community To imagine an equitable labour regime specifically suited to the farming industry in the face of entrenched interests of farming capital is extremely difficult.

It appears that the Government, in keeping with its *transitional politik*, has tried hard to assuage trade union demands in pursuance of its broad objective of exciting credibility There is an urgent need to ensure that farmers comply with the imperative provisions of the Act.

Mr Kobus Kleynhans, another SAAU spokesman, said many farmers viewed "unions negatively as a group of people having no regard for the economy of the country As a result we are reluctant to allow trade unions to organise workers on farms although we recognised their right to do so "

Another flaw is that, unlike the LRA, collective bargaining is not regulated by the new Act. Dispute resolution mechanisms like conciliation boards and industrial councils will thus not be available to farmworkers

Coleman pointed out that this represented a backlog in the extention of labour rights to farmworkers

It is cold comfort for a worker to secure rights which he cannot exercise. A right is a right precisely because it is exigible. Moreover, the Act affects the farm workers adversely in that specific clauses, enacted specifically to cater for farm workers, prescribes more maximum working hours compared to office and factory workers One assumes that the legislature, by adding more hours to farmworkers, tried to provide for that "uniqueness" to meet farmers' demand for special legislation for farming industry

What kind of legislation the farmers are looking forward to is still unclear Coleman says the Act is not in line with international standards The National Union of Farm Workers, an affiliate of the National Council of Trade Unions (Nactu), says the Act is inadequate.

Coleman says the Act is acceptable as a first step towards a comprehensive package that will ultimately see the Labour Relations Act and the Wage Act applicable to farmworkers as Cosatu agreed with Manpower Minister Leon Wessels

# Peace groups fear ANC, Inkatha clashes at rallies

B/Day 15/6/93

WILSON ZWANE

PEACE organisations yesterday expressed concern that clashes could break out between Inkatha and ANC supporters when the two organisations commemorate the 17th anniversary of the 1976 Soweto uprising at rallies in the East Rand township of Vosloorus tomorrow.

The ANC's rally will be addressed by the organisation's Natal Midlands chairman Harry Gwala and the Inkatha gathering by Transvaal organiser Themba Khoza.

Neither organisation is holding rallies in surrounding townships and this could boost the numbers attending the Vosloorus rallies.

Inkatha senior official Humphrey Ndlovu said yesterday that his organisation would not switch its rally from Vosloorus "just because the ANC will be holding a similar rally in the area".

And sources close to the Wits/Vaal peace secretariat said the organisation had been caught off guard by Inkatha's eleventh hour announcement that it would hold a rally in the township.

They said Inkatha had yet to furnish the secretariat with details of their rallies.

These details are essential if agreement is to be reached on issues such as policing and choice of routes.

Sources expressed concern that violence could break out unless steps were taken to avert confrontation.

Ndlovu said the secretariat was "not God". He said Inkatha could not have provided the secretariat with details of its rally in Vosloorus without having first secured a venue. This was done only on Sunday

The organisation was due to provide the secretariat with details of its rally yesterday.

ANC spokesman Ronnie Mamoepa called on all people commemorating the day to do so "with the dignity it deserves"

Mamoepa also called for peace monitors to be out in full force to ensure that "peace reigns supreme" during the services.

He also urged police not to act in a manner which might ignite violence.

Mamoepa pointed out that the agreement which the ANC PWV region and Inkatha reached in March — on the eve of Sharpeville Day commemorations — should serve as a guide for tomorrow's activities.

In terms of the agreement — brokered by the Wits/Vaal peace secretariat — Inkatha and the ANC vowed to conduct themselves in a peaceful manner. The parties also agreed on routes their respective followers would use.

Ndlovu said it was about time that members of the ANC and Inkatha held rallies in the same area without police having to keep them apart.

Hundreds of thousands of black workers are expected to stay away from work tomorrow, AP-DJ reports.

Cosatu said it expects all of its estimated 1,2-million members to stay away.

Cosatu threatened it would take industrial action against employers which did not recognise the day as a paid holiday.

Sacob estimates the stayaway will involve 80%-100% of workers across the country

Labour consultants Andrew Levy & Associates predicts more than two thirds of the estimated 6-million black workers will stay away.

Sapa reports the Johannesburg City Council said yesterday officials anticipated a stayaway tomorrow and added the action may disrupt some services.

Council solid waste director Gys du Plessis requested Johannesburg householders who normally have their refuse collected on Wednesdays to keep their rubbish inside their properties until next Wednesday.

He added. "A June 16 stayaway may also disrupt other services such as clearing sewer blockages or repairing water leaks."

☐ The ANC's western Cape region is to call for a stayaway tomorrow.

## The future of law to be debated

B/Day 15/6/93

SUSAN RUSSELL

CHIEF Justice Michael Corbett and Judge Richard Goldstone will be two of the speakers at a one-day conference on the future of SA law in Johannesburg on Monday.

The conference, at the Standard Bank Arena, has been organised by law firm Webber Wentzel to celebrate its 125th anniversary and is co-sponsored by Standard Bank

A senior ANC legal adviser will also take part in the conference, which will debate where SA law is heading and how it should be adapted to meet the needs of a changing SA.

Webber Wentzel senior partner Peter Reynolds said the conference would look critically but positively at SA's legal system. "We wish to anticipate, in a meaningful forum, what will become of law in this country as we emerge from our troubled past into a new era. We want to play our part in guiding this country's legal system along what we believe to be the proper channels."

Reynolds said until now the debate on the future of law in SA had been confined largely to legal circles.

"The Webber Wentzel conference is open to the general public and will bring the debate into the public arena. All interested parties will be exposed to the views of respected and informed jurists, from the most senior of our judges to experienced practising attorneys facing clients on a day-to-day basis," Reynolds said.

## Nujoma off to US

B/Day 15/6/93

WINDHOEK — President Sam Nujoma left Windhoek yesterday for an official state visit to the US.

He is the first African president officially invited to the US by the Clinton administration.

Acting US ambassador to Namibia Howard Jeter said the visit was tacit recognition by the US that Namibia had done "a very good job with democracy efforts" since independence.

Nujoma will spend 12 days in the US. Apart from meeting state officials, he will be interviewed on CNN, dine with the Congressional Black Caucus leadership and receive an honorary doctorate from Central State University in Ohio, before returning home via a human rights conference in Vienna — Sapa.

# Don't bring back hangman, urges ANC

Star 15/6/93

The ANC has reiterated its opposition to the lifting of the moratorium on the death sentence, and has called on President F W de Klerk "to stop playing with the lives of black people by trying to curry favour with white voters" (252)

In a statement yesterday, the ANC said the current attempts by De Klerk and his Government "to get the apartheid Parliament" to agree to the resumption of executions was "absolutely unacceptable".

The organisation said that before the introduction of the moratorium on the death sentence in 1990, South Africa was known as the hanging capital of the world.

"The vast majority of people executed were black It was indeed a white Government using apartheid laws to hang hundreds of black disenfranchised South Africans annually." Among those executed were liberation fighters.

"Outstanding young men who could have made a significant contribution — such as Simon Mogoerane, Marcus Motaung and Jerry Mosololi — were executed 10 years ago They would now have been released and reunited with their families as political prisoners.

"The terrible finality of the death penalty makes this impossible," the ANC said.

— Political Correspondent.

# Death penalty vote on Thursday

(252) ARG 15/6/92

**Political Staff**

PARLIAMENT is to vote on Thursday on whether a moratorium on hanging introduced in 1990 should be lifted.

The wording of the motion that MPs will debate was released today

The draft resolution reads "That the House is of the opinion that the government should revoke the suspension of the carrying out of the death sentence."

It will be introduced by Mr Kobie Coetsee, Minister of Justice

MPs from the National Party will have a free vote on the motion The Democratic Party and the Labour Party will probably also allow their MPs to vote according to their conscience

A majority of the MPs are expected to vote in favour of hanging

This would not mean, however, that the government would automatically reverse its decision to suspend the hanging of condemned criminals No executions have taken place since November 1989

The government has to weigh up if it wants to risk the political row that could blow up over a hanging, or if it wants to hang criminals so as to add to a "tough-guy" image at the polls on April 27 next year

President De Klerk said earlier this year that he favoured the death penalty but that he felt that it should be applied only in a limited sense

# Counsel for SADF hints at SAP involvement in Goniwe's death

B/Day 15/6/93

PORT ELIZABETH — The focus in the inquest into the 1985 death of Matthew Goniwe shifted from the Defence Force to the police yesterday, with senior counsel for the SADF alluding to police complicity in the murder

(252)

Anton Mostert charged in the Supreme Court that evidence in his possession indicated the police, and particularly the security police, should be investigated to determine their complicity in the murders of Goniwe, Sicelo Mhlawuli, Sparrow Mkhonto and Fort Calata.

Mostert further alleged there was a possible link between their 1985 murders and the 1989 murders of three security policemen and a so-called Askari or turned ANC activist who worked for the police. He said they might have had knowledge of the Goniwe murder or even have been involved in its commission

The men killed in the limpet mine blast on December 14 1989 were identified as Amos Faku, Desmond Mapipa, Charles Jack and a Mogaduka. Mostert said both sets of murders had been well planned and executed and had been effectively covered up. There were indications that Jack, an Askari, had been "putting out feelers" to return to the ANC fold.

The four had been conducting an operation under security police captain Deon Niewoudt at the time of their deaths

He outlined the "coincidences" surrounding Niewoudt's involvement. Niewoudt, an explosions specialist, had been in charge of the operation, the culmination of which had led to their deaths. By his own admission in the inquest into their deaths, he had been only a short distance away when the explosion occurred.

Mostert said Niewoudt had been the first on the scene and examined it with ample opportunity to suppress evidence He would also show that Niewoudt had "conducted himself" as the investigating officer in the inquest

Mostert applied to Eastern Cape Judge President Neville Zietsman to change the order of witness appearances to allow Niewoudt — now a major in the SAP — to give evidence today instead of the SADF's Col Lourens du Plessis

Legal counsel for the SAP, Pieter de Bruyn, dismissed Mostert's allegations of complicity by Niewoudt and the police as a disgrace He said the ANC had claimed responsibility for the 1989 limpet mine blast and that further investigation of police complicity was therefore ridiculous.

A schism between the SAP's and SADF's legal teams became obvious when De Bruyn accused Mostert of trying to shift the inquest's "spotlight" away from the SADF and onto the police

He opposed Mostert's application to have the order of witnesses changed

George Bizos, SC, for the families of the deceased, supported Mostert's application, but said he would not allow the focus of the inquest to be shifted away from the SADF. Evidence would show that both parties had been involved in the murders, he said

The judge ruled that Niewoudt would be called to give evidence this morning with the understanding that De Bruyn be allowed to apply for more time if he considered it necessary — Sapa.

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# Parliament's hanging vote not binding on government

(252) ARGT 16/6/93

**Political Staff**

PARLIAMENT'S vote tomorrow on whether the moratorium on hanging should be lifted is unlikely to have any practical effect

A joint sitting of the three Houses will be asked to vote on a resolution tabled by Justice Minister Kobie Coetsee

It reads "That the House is of the opinion that the government should revoke the suspension of the carrying out of the death sentence"

But the vote will have no binding effect on the government and it is unlikely to take any decision without the go-ahead of its negotiating partners

It has generally been anticipated that the vote will be strongly in favour of dropping the moratorium, introduced in 1990

However, some sources believe there is a growing awareness in the National Party of the need for the decision to be taken by an interim government

Some may use the opportunity of a rare "free vote" — where they are not expected to toe the party line — to oppose the lifting of the moratorium

Top government sources have indicated that a majority vote in favour of hanging would not mean it would automatically drop the moratorium No executions have taken place since November 1989

On March 24 President De Klerk, announcing that the vote would be held, said the government was convinced that retaining the death penalty was "both morally and legally correct"

# Vote unlikely to bring back hanging

Star 16/6/93

(252)

By Chris Whitfield
Political Correspondent

CAPE TOWN — Parliament's vote tomorrow on whether the moratorium on hangings should be lifted is unlikely to have any practical effect.

A joint sitting of all three Houses is to be asked to vote on a resolution tabled by Justice Minister Kobie Coetsee which reads: "That the House is of the opinion that the Government should revoke the suspension of the carrying out of the death sentence."

However, the vote will have no binding effect on the Government and it is unlikely that it would take any decision without the go-ahead of its negotiating partners.

It has generally been expected that the vote would be strongly in favour of dropping the moratorium, which was introduced in 1990.

However, some sources believe there is a growing awareness in the National Party of the need for the decision to be taken by an interim government.

Some may use the opportunity of a rare "free vote" — where members are not expected to toe the party line — to oppose lifting the moratorium.

Top Government sources have also indicated that a majority vote in favour of hangings would not mean it would automatically drop the moratorium. No executions have taken place since November 1989.

Announcing that the vote would be held, President de Klerk said on March 24 that the Government was convinced that retaining the death penalty was "both morally and legally correct".

However, he added that in view of progress on a charter of fundamental rights, the Government "deemed it just and necessary to suspend the carrying out of the death penalty for a reasonable period, pending the result of discussions on an interim charter of fundamental rights to be implemented in the transition phase".

At the time, De Klerk also said that the Government would launch "an intensive process of consultation of leaders of extra-parliamentary parties and organisations".

# Potential witness gets death threats

B/Day 16/6/93

PORT ELIZABETH — The notorious Koevoet unit's activities, allegations of death threats to key witnesses and evidence on the possible destruction of relevant documentation by the security police, came under the spotlight at the Goniwe inquest in Port Elizabeth yesterday.

Before the proceedings had even begun, legal counsel for the police Pieter de Bruyn told Judge Neville Zietsman that former security policeman Capt Deon Nieuwoudt, a potential witness, had received death threats

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The threats followed senior counsel for the SADF Anton Mostert's allegations that Nieuwoudt might have been involved in the 1989 killing of three policeman and an informer, all of whom probably had knowledge of the 1985 murder of Matthew Goniwe and three other campaigners.

De Bruyn said Nieuwoudt's career, his life and the lives of his family were on the line and he would not be able to testify before further consultation had taken place.

Former head of the security police in Cradock and former officer in Koevoet Col Eric Winter admitted during cross-examination by Mostert yesterday that documentation recording Goniwe's movements between June 16 and June 27, the day he was brutally murdered, might have been destroyed without authorisation.

He said he could not recall if such documentation had existed or if it had been destroyed, as after the 1990 unbanning of political organisations, "masses" of classified documentation had been destroyed as it was no longer considered relevant.

He admitted that if documentation recording Goniwe's movements between June 16 and 27 had been destroyed, it would have been relevant and "beyond authorisation".

He said Goniwe had been considered a major political campaigner and as such his movements had been monitored and his telephone bugged.

Senior counsel for the deceased George Bizos submitted that Winter had brought the violent ethos of Koevoet with him when he had been transferred to head the security branch in Cradock in March 1985, three months before Goniwe and the others were brutally murdered.

While admitting that Koevoet was a "cold, calculated, effective and ruthless unit and the major thorn in the flesh of Swapo terrorists", Winter denied that he had used the unit's "unorthodox" methods in Cradock.

The hearing continues tomorrow. — Sapa

# Motorist to appeal on camera traps

SUSAN RUSSELL

THE legality of using unmanned camera traps to convict drivers for speeding offences will be challenged in the Appellate Division after a Witwatersrand motorist was granted leave to appeal in the Rand Supreme Court this week.

Albertus Fuhri was convicted by an Alberton magistrate of exceeding the speed limit. The conviction was based on photographic evidence obtained by an unmanned camera trap. He was cautioned and discharged.

In March Fuhri, funded by the Automobile Association, appealed against the conviction on the grounds that photographic evidence from an unmanned camera speed trap was hearsay and inadmissible. His appeal was dismissed by two Rand Supreme Court judges.

This week, however, Fuhri was granted leave to take his appeal to the Appellate Division. It was argued on his behalf that the principle involved was of great relevance to the future development of the law in respect of speed prosecutions using automated devices.

Fuhri's appeal is the second AA-funded case challenging the validity of convictions obtained through unmanned camera traps. In the first, heard in Cape Town in February, a motorist fined R120 for speeding was acquitted after the court held that readings from an unmanned camera trap were hearsay evidence.

# New lifestyle magazine launched

LINDA ENSOR

CAPE TOWN — Associated Magazines, partly owned by Cosmopolitan and Femina editor Jane Raphaely, is to launch a new monthly magazine — House and Leisure — in October.

B/Day 16/6/93

Raphaely said yesterday at a function to announce the launch of the glossy lifestyle magazine that the timing for such a publication seemed right.

It would fill a gap in the market and take advantage of the worldwide trend to focus on the home. Food, travel, entertainment, leisure and gardening issues would be covered

Raphaely said finance was available to cover losses for the first two years while the magazine established itself in the market

House and Leisure's cover price would be R5,45 including VAT. The initial print order was 70 000-90 000 copies and monthly sales of 70 000-75 000 copies were expected. The magazine would be distributed through 7 600 retail outlets

Associated Magazines partner and marketing director Volker Kuhnel said international syndicators such as Belle, Marie Claire Maison and House and Garden had been signed up to provide foreign input.

At least 75% of readers were expected to be in the 20-49 age group, about 30% to be drawn from the A-income group with the balance coming from B- and C-income groups.

Kuhnel said research had shown that South Africans wanted access to more information about houses, decor, modern living, leisure and travel.

Star 16/6/93

# Living argument against the death penalty

(252)

More than 300 people wait on Death Row for Parliament to debate capital punishment. MICHAEL SPARKS looks at the case against judicial killings.

MABUTI Mamkeli should be dead. Convicted of murder, he was sentenced to hang at Pretoria Central Prison — a punishment confirmed by at least six judges in no fewer than four courts.

Finally, his case was heard by the Appellate Division in Bloemfontein after the Government announced a moratorium on hangings. Three judges commuted his sentence to 15 years' jail. They also questioned the original conviction, but held that their court had no authority to set it aside

After a change in legislation, his further appeal resulted in both his sentence and conviction being overturned But it took appearing before at least 11 judges, eight of them appellate division judges, for that to happen.

Today he is a free man, doing whatever casual work he can find in the Port Elizabeth township of KwaZakhele after spending more than five years in prison — three and a half of them on Death Row

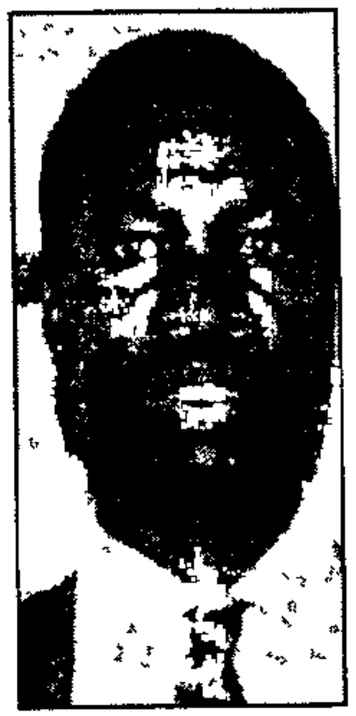
Mamkeli, who comes from Stutterheim in the Eastern Cape, was convicted of murdering Mavis Mbekeni (16).

Mamkeli was the last person to be seen with her on May 10, 1987 when she disappeared on her way to school in the nearby town of Berlin. When her body was found a week later — she had been raped before being murdered — he became a prime suspect and was arrested.

The evidence against him was circumstantial and was criticised during the appeal process as being weak. Mamkeli always maintained that he was innocent. The Appelate Division was finally convinced and he was set free.

Speaking through Mothofeela Mosuhli of Lawyers for Human Rights, which arranged his legal counsel, Mamkeli said he had not been back to Stutterheim since his release because he was afraid of reprisals from the young woman's family

Of his time on Death Row he said "Many people were taken away from us to be executed," and every time that happened he became "very scared" about his own fate.



Mabuti Mamkeli free after years in shadow of the noose

He contemplated both escape and suicide, but never had the opportunity for either

Not surprisingly perhaps, he disagreed with the possible lifting of the moratorium on hangings, adding that he was sure there were other innocent people like him waiting in the cells, who never had the opportunities of appeal that he had

Mamkeli disputed the oft-used argument of the death sentence acting as a deterrent.

"I would understand if people were given a long sentence and then released. Then those people would go back and tell people outside about life in prison. That way people get to know what happens

"People don't know what it's like waiting to be executed on Death Row Not sleeping, and crying the day before your execution," he said.

He said he was "really thankful" to his advocate Glenn Turner, who argued the successful appeal, for "saving my life, and giving me hope"

David Unterhalter is chairman of the Society for the Abolition of the Death Penalty He says cases such as Mamkeli's are among the best reasons for abolishing the death penalty

"As long as fact-finding is done by humans — and is therefore fallible — you never know if an innocent man is being executed," Unterhalter said

He added that SA was little different from other countries in the world where more people support the death penalty than oppose it.

"That means the country needs enlightened lawmakers," he said, adding that many people were surprised when President F W de Klerk announced recently that Parliament would vote on the moratorium on the death penalty implemented in 1990

"Many people thought the death penalty would simply fade away after the moratorium but people are desperate and fed up with crime and tempted to believe that hanging people will help," he said.

Although he was opposed to hanging, that did not mean that he was opposed to harsh punishment for those who have committed a heinous crime.

"There are more procedural protections with the death penalty, but there is no proof against error the country should rather institute life imprisonment, so the person dies in prison," Unterhalter said.

The procedural safeguards in death sentence cases can result in a legal process that lasts 10 to 15 years before a person is executed. This means that the argument that the death penalty saves taxpayers' money by not looking after convicted people for years becomes less valid, he said.

For those those who believe sitting in a cell until the day they die is a prospect worse than death, Unterhalter would not object to their having the option of requesting assisted suicide — but only after a period of time has passed from the sentencing and after psychological counselling. □

## Waiting for the hangman

- Before President FW de Klerk imposed a moratorium on hangings on February 2, 1990, on average more than 100 people were executed in South Africa every year.
- From 1980 until the moratorium was imposed 1 122 people were executed.
- In 1989, while 170 people were sentenced to death, 53 were executed
- In 1988, 117 were executed, but the previous year 164 were hanged at Pretona Central Prison
- As of the end of April this year, there were 318 people on Death Row in South Africa (including the homelands) awaiting a decision on the moratorium.
- In March of this year De Klerk announced that he would call on Parliament to debate reimposing the death sentence. And the current session of Parliament is scheduled to end on June 24, suggesting the issue will be debated in the next few weeks.

Graphic SHAHN IRWIN

# Murder of Goniwe 'too sophisticated for Azapo'

Star 16/6/93

By Helen Grange

PORT ELIZABETH — A former Cradock security police chief decided that the method used in the killing of Matthew Goniwe was "too sophisticated" to be the work of the Azanian People's Organisation, the Goniwe inquest heard yesterday.

Colonel Eric Winter, former commander of the town's security police, had initially thought that the killing could have been done by Azapo but later realised that the murder was "too sophisticated" for any element outside the security forces, the inquest heard.

Winter, who took the witness stand yesterday, was quizzed at length by George Bizos, SC, counsel for the Goniwe family, on his unit's monitoring of Goniwe during 1985 until the activist's burnt body was found on an eastern Cape roadside on June 27 1985.

Bizos put it to Winter that a bugging device called a "tamatie" had been planted in Goniwe's home and that all his calls and movements were under security police surveillance.

Winter said he knew nothing of the "tamatie" but agreed that his movements and communications were closely monitored.

Asked where he was on duty on the day of Goniwe's murder, Winter said he was "in and out of" his office in Cradock. Bizos suggested to him that after receiving a phone call that morning to say Goniwe would be travelling to Port Elizabeth, Winter had left his office and had not returned that day.

Winter testified that after Goniwe's murder, he had believed Azapo was responsible but later decided it was

● To Page 3

# Not Azapo, inquest is told

Star 16/6/93

● From Page 1

"too sophisticated" to have been committed by any element outside the security forces.

He did not, however, know who in the security forces had committed the murder.

Bizos said Winter's background revealed that he was a senior member of Koevoet — an SAP-controlled counter-insurgency unit which operated against Swapo in the former South West Africa — for five years before he joined the security police in Cradock in 1985.

Extracts about Koevoet were read in court from journalist Jacques Pauw's book *In the Heart of the Whore* and put to Winter to deny or affirm.

Winter, on being asked whether one description of Koevoet as being a "cold, calculated, effective and ruthless unit" was fitting, replied that this was "a piece of total propaganda".

Bizos put it to Winter that he (Winter) had brought the "ethos" of Koevoet to Cradock and that Goniwe's murder was carefully planned by "programmed killers".

# MPs set to vote for noose

(252)

CT 17/6/93

**Political Staff**

A MAJORITY of the 308 MPs are set to vote today in favour of bringing back the noose — but it is expected to spark a new row that could strangle the faltering negotiations process.

Parliament takes a vote this afternoon on whether a moratorium on hanging, introduced in 1990, should be lifted.

The ANC opposes the lifting and has accused President F W de Klerk — who favours applying the death sentence in a limited sense — of pandering to white voters and playing with the lives of black people.

It has pointed out that before the moratorium the vast majority of victims of the hangman's noose were black and South Africa was the "hanging capital of the world".

A small majority of 36-member Democratic Party MPs are expected to vote against hanging.

● **The decision is not final — Page 6**

# Public defence system is in full flight, and ready to fight your battles

Star 17/6/93

IN JANUARY 1992, the country's first public defenders' office was opened in Johannesburg

It was manned by ten qualified attorneys and advocates supported by administrative and support staff and financed by funds made available for the project by the Legal Aid Board, who also set up this pilot project.

The objective is to reduce, in the most cost-effective manner, the unacceptably high number of criminal cases heard daily in regional and district courts where the accused appears without legal representation.

In the first three months of operation, some 770 applications for assistance were granted, which means that as many as three thousand cases will be given aid during the full year

More than half-way through the initial two-year trial period the signs are very positive, and a decision has been taken to extend the pilot project by a further twelve months to ensure that expansion can be properly funded

It is hoped that proposed amendments to the Attorneys Act will shortly become law.

When this happens it will be possible for law graduates to render legal service, known as community service, inter alia at the office of the public defender.

In due course, it could therefore be possible for further attorneys and advocates to be appointed to man similar offices throughout the country.

This will go a long way to alleviating the plight of the many people who appear in court and have to handle the unfamiliar and complicated proceedings themselves, and it will prevent some 100 000 persons each year from being sentenced to jail terms without legal representation

The results achieved during the pilot phase of the project indicate that the scheme is financially viable.

If, by their intervention on behalf of accused persons, the public defenders manage to achieve only a 10% reduction in South Africa's daily prison population, a financial saving of over R250 m could be achieved in a full year.

Thus the public defender scheme would pay for itself in a very short space of time if funds were re-allocated for this purpose, and many people who otherwise might have been detained, would go free

In addition to supplementing the excellent work currently being carried out by attorneys working in this field, the legal community sees a further advantage in the establishment countrywide of the public defenders scheme Following the passing of the necessary legislation in parliament, it will be possible to use the scheme to provide practical training to future attorneys who otherwise would possibly not be able to obtain articles of clerkship with law firms

It is envisaged that each of the attorneys employed as public defenders will be assisted by up to fifteen law graduates

The period of time these assistants spend in the public defenders' offices would, for example, be taken as an alternative to articles

Since it is expected that some 4 800 students will graduate from universities with legal degrees in 1994, and that the profession will only have the capacity to grant articles to 2 000 of them, this scheme will go a long way to making up the the balance for those who do wish to go on to qualify as attorneys

**INVENTORS AND ARTISTS** must ensure they keep hold of their work

Star 17/6/93

# Patent it, or you will lose it!

(252)

IT WAS recently reported in the Sunday Star (May 30) that South African inventors had fared well at an international trade show in the United States where their innovative products won top awards.

For them to have profited from their designs, these inventors would probably have approached a South African patent attorney to ensure their work was protected in law.

Almost all patent attorneys belong to The South African Institute of Intellectual Property Law (SAIIPL) and the work they do is concerned with the protection of what is known as intellectual property.

This grand sounding title refers to items created through the exercise of one's intellect

It is used to distinguish physical property such as a house, or motor car, from creations of the imagination like inventions, designs, books, artworks and drawings that will ultimately be transformed into physical objects

If a person invents something that is original and which has not previously been made available to the public, it should be protected by a patent

Application is made to the Patent Office in Pretoria, and if the patent is granted, the owner has the right to prevent others from copying, manufacturing, selling or using it.

Dr Antonie Gildenhuys . . . chairman of the Peace Secretariat and member of the SABC board.

The reason for employing a patent attorney, and not making the application oneself, is to ensure the registration is properly specified

The ability to define the invention, to give it the broadest protection without losing validity through trying to cover too much, is the skill of the patent attorney

It is not unusual to find that an attorney dealing in patents has, in addition to a legal degree, a degree in engineering or science. Thus they are capable of understanding the technical complexities of the work they are frequently called upon to deal with

The law relating to registered designs is similar to that of patents However, whereas a patent protects a principle or idea, a registered design gives protection to the shape or configuration of an article

A trade mark is form of intellectual property which distinguishes one product or service from others available in the marketplace.

Since manufacturers and service providers devote considerable amounts of effort and cash to creating brands from their products, the protection of that brand name, or trade mark, becomes of vital significance to the company

In recent years, the prices paid in large business acquisitions have been influenced by the inclusion of registered trade marks as an asset in the balance sheet of the firm being bought. If these names had not been successfully registered, the investment in the brand name could be worth nothing.

But, not all names are capable of registration. There is sometimes, for example, a conflict between what the owner wishes to name the product and what is legally acceptable.

Patent attorneys are trained and have the experience to prepare and make the application. Unlike patents (ie the registering of designs and trademarks if certain conditions have been met), a copyright owner automatically enjoys copyright protection in a work and no registration of the copyright is required.

The copyright in a work is infringed if a person (without the authority of the copyright owner) does one of the acts reserved for the copyright owner in the Copyright Act and which therefore falls within the exclusive right of the copyright owner.

In general, the act reserves for the copyright owner the right over reproduction and adaptation of the work. The copyright in a work will also be infringed if a person imports a work into the Republic to sell or lets the article, knowing that the copies concerned are infringing copies

It is also worth noting that copyright in a literary or musical work is infringed if a person allows the work to be performed in a public place in the knowledge that the performance of the work constitutes an infringement of copyright.

Generally speaking, the original author of the work will be the first owner of the copyright, but the law recognises numerous circumstances when this will not be the case.

For example, different conditions apply to the many people who are employed by companies to produce technical drawings for items that will then be manufactured, or as journalists who write articles.

In these cases the employer is considered to be the copyright owner.

Important changes have recently been made to South African copyright law regarding computer programs. Previously they were considered in the same category as literary works, but the effect of the amendment to the Act is to recognise the special problems attached to the making, marketing and proving that copyright in a computer program exists

In terms of the amendment, the owner of the copyright is the person who "exercised control" over the making of the program. This person, or his agent, can now exert better control over the letting, offering or exposing for hire of the program.

this investigation will be submitted, if not, why not;

(3) whether he intends instructing the SADF to institute such an investigation, if not, why not, if so, when? B846E

The MINISTER OF DEFENCE

(1) (a) No, Defence Force members are tested according to the K53 system In terms of the Defence Act 1957 (Act No 44 of 1957 as amended) and the Road Traffic Act (Act No 29 of 1989) the SA Defence Force is entitled to issue its own licences

(b) Yes The regulations are contained in the SADF Logistics Policy and Procedures 14, Pamphlet 1, Part 3, Chapter 5, "Road Transport in the SA Defence Force" and in the Army Training Instruction 2/91, Appendix A-14, paragraphs 26 to 29

(2) Yes The enquiry can, however, only be completed when the required judicial proceedings have been concluded and the evidence which is heard or presented during these proceedings, has been taken into account

(3) Until such time as the findings and recommendations of the SA Police Enquiry are known, this decision is being kept in abeyance

**SADF: regulations applicable to military vehicles**

371 Mr E K MOORCROFT asked the Minister of Defence

(1) Whether military vehicles used for the transportation of passengers are subject to the same regulations applicable to civilian vehicles used for that purpose, if not,

(2) whether any internal regulations and/or rules of the South African Defence Force make provision for military vehicles used for that purpose, if not, why not, if so, (a) who is responsible for ensuring that such regulations and/or rules are complied with and (b) what is the maximum speed at which Samil vehicles are allowed to travel on (i) freeways and (ii) (aa) tarred country and (bb) dirt roads when transporting school cadets? B850E

The MINISTER OF DEFENCE

(1) Yes

(2) (a) The driver and/or the non-commissioned officer or a member of a higher rank who is appointed in each specific instance to accept the responsibility Defence Force Road Traffic Inspectors are also employed and work on a sample method

(b) (i) and (ii) 80 km per hour

**Death sentences commuted**

373 Mr P G SOAL asked the Minister of Justice

(1) How many death sentences were commuted in 1992;

(2) whether he will furnish the names of the persons whose sentences were so commuted, if not, why not, if so, what are their names? B826E

The MINISTER OF JUSTICE

(1) 59

(2) The names of the persons and their substitutive sentences are as follows

| | |
|---|---|
| V M M Doncabe | 30 years' Imprisonment |
| S M Blose | 30 years' Imprisonment |
| M Mathebula | 25 years' Imprisonment |
| J M Nkwenyana | 15 years' Imprisonment |
| S T Nthlabathi | 15 years' Imprisonment |
| M Z Mncube | Imprisonment for life |
| M E Nondula | Imprisonment for life |
| A Generals | 30 years' Imprisonment |
| M S Mavela | 25 years' Imprisonment |
| E Hanana | 30 years' Imprisonment |
| J T Ledula | 20 years' Imprisonment |
| I Tsotesi | 15 years' Imprisonment |
| S D Mabine | Imprisonment for life |
| J N Masango | 30 years' Imprisonment |
| B Maseko | Imprisonment for life |
| M Z Mnune | Imprisonment for life |
| J N Mosuwe | 25 years' Imprisonment |
| S Phungula | 25 years' Imprisonment |
| N L Zibonda | 25 years' Imprisonment |
| P Dlemnyango | 30 years' Imprisonment |
| A Ngidi | Imprisonment for life |
| D S Mlumbi | Imprisonment for life |
| M G Khuzwayo | Imprisonment for life |
| G J Harper | 20 years' Imprisonment |
| M Z Mole | 30 years' Imprisonment |





| | |
|---|---|
| S E Nyide | 25 years' Imprisonment |
| L D Luthuli | 25 years' Imprisonment |
| J B Bhengu | 25 years' Imprisonment |
| M G Salie | Imprisonment for life |
| J Grootboom | Imprisonment for life |
| D van Wyk | Imprisonment for life |
| T Khumalo | 25 years' Imprisonment |
| J Letshebu | Imprisonment for life |
| D Moreretsi | Imprisonment for life |
| J Melato | Imprisonment for life |
| S W Malongisa | 30 years' Imprisonment |
| B Siqeza | 30 years' Imprisonment |
| I Makhaza | 40 years' Imprisonment |
| J Morten | Imprisonment for life |
| E Tabethe | 25 years' Imprisonment |
| Z Mkhungo | Imprisonment for life |
| B Dladla | 25 years' Imprisonment |
| M Lushaba | 25 years' Imprisonment |
| V Mbatha | 30 years' Imprisonment |
| S M Hlongwane | 30 years' Imprisonment |
| M Chonco | Imprisonment for life |
| S Khanyile | Imprisonment for life |
| A L Mahara | 20 years' Imprisonment |
| G R Eybers | Imprisonment for life |
| J Z M Magubane | Imprisonment for life |
| Z N C Mbatha | 30 years' Imprisonment |
| H M Ngcobo | Imprisonment for life |
| M Ntaka | Imprisonment for life |
| J Mathebula | 25 years' Imprisonment |
| W Dlamini | 25 years' Imprisonment |
| O V Mabaso | 25 years Imprisonment |
| J Mkhonto | Imprisonment for life |
| M J Ndabeni | Imprisonment for life |
| V Dawson | 18 years' Imprisonment |

**Local authorities. persons living outside designated areas**

396 Mr M J ELLIS asked the Minister of Home Affairs

How many persons were living outside areas designated as local authority areas in each province in the Republic as at the latest specified date for which statistics are available? B920E

The MINISTER OF HOME AFFAIRS

According to the 1991 Population Census (7 March 1991 the following number of persons per province were enumerated *outside* local authority areas (i e outside urban areas with some or other form of local authority)

| *Province* | *Number* |
|---|---|
| Cape | 1 228 196 |
| Natal | 696 235 |
| Transvaal | 1 992 495 |
| Orange Free State | 817 670 |

| Hospital | (i) Cost per patient per day R | (ii) Income per patient per day R |
|---|---|---|
| Somerset West | 159,93 | 28,44 |
| Springbok | 168,27 | 25,62 |
| Stellenbosch | 237,78 | 43,74 |
| South Peninsula Hospital Group | 224,26 | 22,29 |
| Sutherland | 191,96 | 20,12 |
| Swellendam | 178,17 | 32,72 |
| Victoria West | 200,90 | 13,85 |
| Vredenburg | 176,54 | 31,40 |
| Vredendal | 147,56 | 34,42 |
| Westfleur, Atlantis | 72,52 | 10,26 |
| Woodstock | 211,50 | 22,72 |
| Worcester | 137,17 | 11,78 |
| *Northern Cape Region* | | |
| Barkly West | 93,57 | 18,98 |
| Colesberg | 120,16 | 13,15 |
| De Aar | 206,12 | 40,49 |
| Douglas | 142,04 | 20 33 |
| Hartswater | 121,72 | 22,95 |
| Kakamas | 195,26 | 20,56 |
| Kimberley | 278,27 | 4,29 |
| Kuruman | 141,69 | 46,56 |
| Noupoort | 143,14 | 18,05 |
| Postmasburg | 146,07 | 23,80 |
| Prieska | 143,72 | 27,01 |
| Reivilo | 135,92 | 8,93 |
| Upington | 197,83 | 37,79 |
| Vryburg | 133,43 | 27,21 |
| *Eastern Cape Region* | | |
| Aliwal North | 178,97 | 33,54 |
| Barkly East | 182,69 | 18,05 |
| Bedford | 170,60 | 13,33 |
| Burgersdorp | 132,24 | 27,27 |
| Cathcart | 208,23 | 12,72 |
| Cradock | 207,82 | 24,99 |
| Dora Nginza, Port Elizabeth | 229,98 | 3,67 |
| Elliot | 145,09 | 9,71 |
| East London (Frere) | 241,25 | 25,76 |
| Fort Beaufort | 171,43 | 21,80 |
| Graaff-Reinet | 226,14 | 35,59 |
| Grahamstown | 161,89 | 14,13 |
| Humansdorp | 164,52 | 36,05 |
| King Williams Town | 230,71 | 22,08 |
| Livingstone, Port Elizabeth | 203,25 | 8,67 |
| Middelburg | 174,58 | 25,50 |
| Queenstown | 222,34 | 19,84 |
| Somerset East | 157,12 | 21,50 |
| Steynsburg | 136,92 | 14,16 |
| Uitenhage | 196,74 | 57,33 |





| ACADEMIC REGION | | |
|---|---|---|
| *Groote Schuur Region* | | |
| Groote Schuur, Observatory | 420,40 | 17,89 |
| *Red Cross Region* | | |
| Red Cross War Memorial Children's Hospital | 369,68 | 18,24 |
| *Tygerberg Region* | | |
| Tygerberg | 374,88 | 21,89 |

(b) 1991–92 financial year

Information contained in this reply have been furnished by the provincial administrations

**Black schools: buildings/books damaged**

360 Mr S P BARNARD asked the Minister of Education and Training †

(a) What total number of black schools have been (i) burnt down and (ii) damaged since 1 January 1983 to date, (b) how many schoolbooks is it estimated were destroyed during this period and (c) what is the total amount in damage suffered by the State as a result? B838E

The MINISTER OF EDUCATION AND TRAINING

(a) (i) and (ii)
The information is not available in the form in which it is required However, since January 1983 a total of 2 207 schools have been damaged in incidents of arson, vandalism, theft and burglary

(b) It is impossible to furnish an estimate for maliciously destroyed schoolbooks Shabby schoolbooks which are unsuitable for further use are written off and destroyed by the Department

(c) With regard to question (a) an amount of approximately R71,0 million is involved

**Murder: convictions**

362 Mr L FUCHS asked the Minister of Justice

How many persons were convicted of murder in each province in 1992? B845E

The MINISTER OF JUSTICE

The required information is not available for 1992 since the statistics are compiled for the period covered by the Department's annual report In an effort to be of assistance to the hon member, the required information for the period, 1 July 1991 to 30 June 1992, the latest period for which statistics are available is given

| | |
|---|---|
| (a) Transvaal | |
| (i) Supreme Court | 510 |
| (ii) Regional Court | 401 |
| (b) Natal | |
| (i) Supreme Court | 346 |
| (ii) Regional Court | 238 |
| (c) Orange Free State | |
| (i) Supreme Court | 71 |
| (ii) Regional Court | 45 |
| (d) Cape Province | |
| (i) Supreme Court | 241 |
| (ii) Regional Court | 337 |

**SADF: accident at Slagboom**

363 Mr L FUCHS asked the Minister of Defence

(1) Whether the South African Defence Force (SADF) has its own (a) examining system in respect of drivers' licences and (b) regulations in regard to the transportation of passengers in military vehicles, if so,

(2) whether the SADF instituted an internal investigation into a certain accident which occurred at Slagboom on or about 18 March 1993 and in which a number of school pupils were killed and injured, if so, when is it anticipated that a report on

# Advocates and attorneys are SA's legal eagles

252

Star 17/6/93.

THE LAW regulates the way we run our lives

Without it a state of anarchy would exist in which people could behave in any way they liked

There would be no law to say that a person could not steal, it would be impossible to prove that you owned the property in which you lived and for which you paid an agreed price, without a legal process marriages would not be recognised, and as citizens we would have no entrenched rights to protect us against abuse by the State or by other individuals

Because the law covers so many aspects of our lives and because the law of today is the result of decisions in court and statutes passed in parliament over decades and even centuries, it is not always easy to understand or interpret.

For this reason lawyers — who spend many years studying law at university, and who, prior to being allowed to practise, are articled to a law firm for a period of time for practical training — are available to assist and advise us in this vital aspect of our lives.

Many attorneys concentrate on property matters, dealing with everything from the transfer of a house from one owner to another to dealing with the complexities of the establishment of a new office block or shopping centre.

Businesses also have a continuing need for legal advice.

This may be concerned with agreements between directors, partners and staff; other companies with which the firm does business, the collection of debts, advice on labour and tax matters and, increasingly in these times of recession, the liquidation or closing down of a firm.

In the event that a dispute causes you to appear in court, attorneys will guide you through the court procedures and will represent you during the hearings.

If your case is heard in the magistrate's court, an attorney will argue your case before the magistrate.

Your case will be heard in the magistrate court if your claim is less than R20 000, with certain exceptions, such as in the case of a mortgage bond or with the agreement of the parties concerned.

As matters presently stand, the attorney will brief an advocate to represent you if the case is to be heard in the Supreme Court.

It is expected that this situation will change shortly when a commission appointed by the Minister of Justice completes its investigation into rights of appearance for attorneys.

# Day of decision

Sowetan 17/6/93

## ■ CRIME RATE De Klerk slated for leaving decision with Parliament:

(252)

**By Ismail Lagardien**
Political Correspondent

MEMBERS of Parliament will today debate and vote on lifting the moratorium on the execution of people on death row activated by President FW de Klerk in 1990

De Klerk has however asked Parliament to decide on lifting the moratorium in the wake of swirling crime and violence in the country

Political parties and human rights organisations have petitioned Government not to proceed with the vote They feel it would not contribute to the peace process in the country

Lawyers for Human Rights have said that it was "appalled, but not surprised, at the political insensitivity and disregard for elementary justice displayed by President De Klerk" in the matter

"It is astounding that the Government is demonstrating its contempt for the multiparty negotiating process so soon after the SABC board debacle and the raid on the Pan Africanist Congress "It was as a direct result of a near-unanimous decision taken at Codesa in April 1992 that Justice Minister Kobie Coetsee announced a moratorium on executions pending the negotiation on a Bill of Rights

"We question the political and moral authority of an unrepresentative and discredited body such as Parliament to overturn decisions of multiparty negotiating forums such as Codesa unilaterally," the LHR said

The Technical Committee on Fundamental Rights during Transition, established by the present negotiations forum, has, in its draft Bill of Rights, proposed that the moratorium be extended

The LHR points out that it was ironic that De Klerk proffered 'the swirling violence in the country as reason for the lifting of the moratorium as it would be prisoners who committed crimes up to seven years ago who could be executed first There are presently 296 people on death row and there are 308 MPs in Parliament

## NEWS IN BRIEF

### Sentence slated

(252)

THE compulsory minimum five-year sentence for people in possession of AK-47 rifles has been criticised by law journal De Rebus, which claims it amounts to a vote of no-confidence in judicial officers B/DAY 17/6/93

De Rebus said in its June editorial comment that when Parliament wanted to stress the seriousness of an offence, it could do so quite adequately by providing for a high maximum sentence.

Prescription of a compulsory minimum sentence hampered judicial officers in the proper exercising of their discretion

Star 17/6/93

# Justice as usual in court

Staff Reporters (252)

The wheels of justice yesterday turned a little more slowly than usual in courts on the Reef, with the Soweto Day stayaway preventing some interpreters and police orderlies from showing up.

The normally busy corridors of the Johannesburg Magistrate's Court emptied more rapidly than usual when prosecutors postponed many of their cases early in the day

Other trials went on without disruption

One prosecutor said her colleagues had tried to set down cases involving mainly white and coloured people.

At the Rand Supreme Court, proceedings suffered little disruption

Judges, lawyers, accused and witnesses were present, but some officials had to double up for colleagues who did not arrive for work

Disruptions in courts elsewhere on the Reef were minor

Kempton Park prosecutors made provision for the stayaway, and only a few cases could not proceed as scheduled

A Randburg prosecutor said his court was marginally quieter than normal.

● In Port Elizabeth, the inquest on the death of Cradock activist Matthew Goniwe did not continue because of the June 16 commemoration The inquest resumes today

# Public defence system is in full flight

Star 17/6/93

IN JANUARY 1992, the country's first public defenders' office was opened in Johannesburg

It was manned by ten qualified attorneys and advocates supported by administrative and support staff and financed by funds made available for the project by the Legal Aid Board, who also set up this pilot project

The objective is to reduce, in the most cost-effective manner, the unacceptably high number of criminal cases heard daily in regional and district courts where the accused appears without legal representation.

In the first three months of operation, some 770 applications for assistance were granted, which means that as many as three thousand cases will be given aid during the full year.

More than half-way through the initial two-year trial period the signs are very positive, and a decision has been taken to extend the pilot project by a further twelve months to ensure that expansion can be properly funded

It is hoped that proposed amendments to the Attorneys Act will shortly become law.

When this happens it will be possible for law graduates to render legal service, known as community service, inter alia at the office of the public defender.

In due course, it could therefore be possible for further attorneys and advocates to be appointed to man similar offices throughout the country.

This will go a long way to alleviating the plight of the many people who appear in court and have to handle the unfamiliar and complicated proceedings themselves, and it will prevent some 100 000 persons each year from being sentenced to jail terms without legal representation.

The results achieved during the pilot phase of the project indicate that the scheme is financially viable.

If, by their intervention on behalf of accused persons, the public defenders manage to achieve only a 10% reduction in South Africa's daily prison population, a financial saving of over R250 m could be achieved in a full year.

Thus the public defender scheme would pay for itself in a very short space of time if funds were re-allocated for this purpose, and many people who otherwise might have been detained, would go free.

In addition to supplementing the excellent work currently being carried out by attorneys working in this field, the legal community sees a further advantage in the establishment country-wide of the public defenders scheme. Following the passing of the necessary legislation in parliament, it will be possible to use the scheme to provide practical training to future attorneys who otherwise would possibly not be able to obtain articles of clerkship with law firms

It is envisaged that each of the attorneys employed as public defenders will be assisted by up to fifteen law graduates

The period of time these assistants spend in the public defenders' offices would, for example, be taken as an alternative to articles

Since it is expected that some 4 800 students will graduate from universities with legal degrees in 1994, and that the profession will only have the capacity to grant articles to 2 000 of them, this scheme will go a long way to making up the the balance for those who do wish to go on to qualify as attorneys

## ' and ready to fight your battles

252

**MAJOR PROBLEM** in SA is the number of people who appear in court without representation

# Every one has a right to a defence

Star 17/6/93. (252)

IN A democratic country, it is the right of every person to have access to the law, because it is the law that underpins democracy

In the past — for historic and well known reasons — it has been difficult for the majority of South Africans to exercise this right As the new constitution is developed, based on a fundamental bill of rights, access to the law will be entrenched

But, there is a difference between enshrining the legal rights of all a country's peoples in a constitution and ensuring that, as the need arises, legal advice is readily available and affordable.

A major problem in South Africa is the numbers of people who appear daily in the country's criminal courts without legal representation

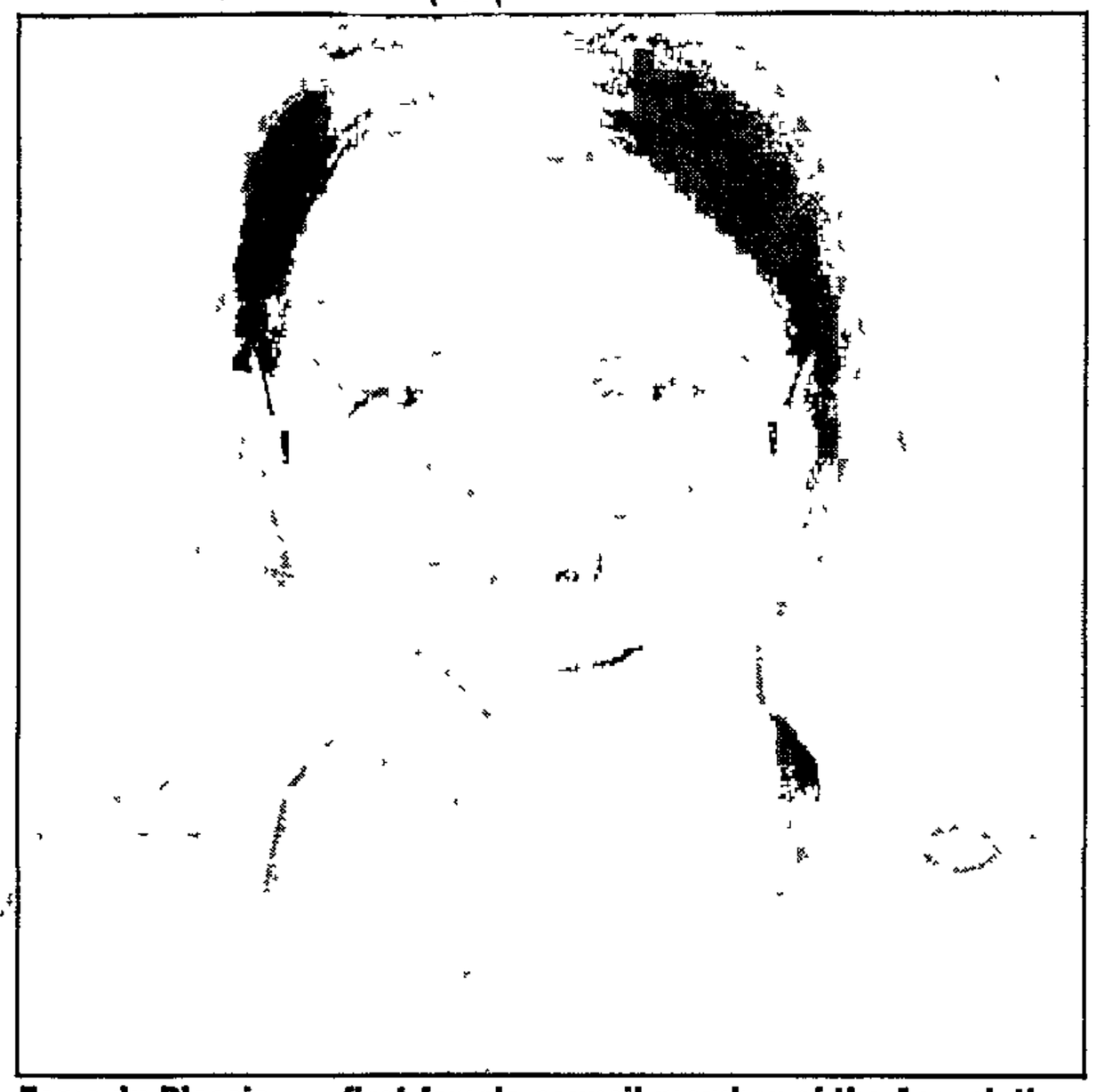
As many as 80% of those accused and who stand trial fall into this category. Usually they can neither afford to pay the fees for a legal expert nor do they know that it is their right to be represented.

This has led to many people being imprisoned who could otherwise have been released.

A similar situation exists with civil cases that are heard daily in the courts, like divorce, for example

If the parties contesting the action are not represented by legal experts, there is the danger that inadequate arrangements will be made for the children of the marriage, who then become the worst affected victims of the break-up.

The need to provide legal assistance to the people of the country has long been recognised and has resulted in the establishment, by the legal fraternity, of a number of bodies and organisations created to address the problem



**Esme du Plessis . . . first female council member of the Association of Law Societies.**

Some are privately funded from local and foreign sources, others have government money allocated to them, and there are those which depend on voluntary workers with legal knowledge.

All have the same motivation To provide legal assistance to those who otherwise could not afford it.

The Legal Aid Board has been in existence since 1969, and although it is funded almost exclusively by public money, it is completely independent of government influence It differs from the other aid bodies mentioned earlier in that clients may use an attorney of their choice and then make application to the Board for financial assistance to pay the attorney's or advocate's fees

Aid is only made available to those who pass a means test This requires that applicants furnish the Board with details of their family income and expenditure. If, according to the calculation — which makes allowances for the numbers of financially dependent children in the family and other essential expenses — there is excess income, limited to certain amounts after all expenses have been taken into account, aid will be granted

There are eleven Legal Aid Board offices throughout the country and the Board has representation in some 300 magistrates courts

Ideally those appearing before the courts should be advised of their rights to representation and the availability of aid from the Legal Aid Board. There is some criticism that this is not always the case and it is proposed that this should become obligatory However, before such a rule could be enforced there would have to be sufficient funds and attorneys available to handle the volume of work that would result. At this stage this is not the case The work of the Board has expanded dramatically since it was founded

But two statistics will place this in perspective In the year ended 1982, the number of applications granted was 8 640 Ten years later for the year ended 1992, the number granted was 57 692 This is almost 20% of the 296 376 cases dealt with by the Board in its 21 year history

Of equal interest is the division of cases between civil and criminal matters

During the 1970s, civil cases represented more than 80% of applications granted This began to swing towards criminal cases, which now represent over 65% of the matters dealt with

If you think you need legal assistance and don't know how to obtain it, call a consultant at the Law Society of the Transvaal in Pretoria, they will guide you in the right direction (tel 012-320-1652)

There are six universities in the Transvaal that teach law Each has established a law clinic. Open to the public, final year law students, assisted by qualified attorneys give legal advice and assistance to thousands of people each year who could not otherwise afford to consult an attorney.

In addition, there are organisations such as Lawyers for Human Rights and the Legal Resources Centre, established to provide legal assistance

As its name implies Lawyers for Human Rights has the focus of its work in the protection of fundamental liberties The Legal Resources Centre, which employs attorneys and advocates throughout the country tends towards cases where large numbers of people are involved - such as squatter communities

# *focus on* hanging

Sowetan 17/6/93

**Andries Nel** and **Paula McBride** of the Lawyers for Human Rights' Penal Reform Project respond to an article by *Sowetan* Investigations Editor Mathatha Tsedu about an interdict to stop the execution of two men sentenced to death in Venda:

MATHATHA TSEDU ARGUED that Frans Netshirombeni and Wilson Nelukalo should not be pardoned or released

He has no need to persuade us of this fact — we have never argued for their pardon or release and have no intention of doing so in the future He asks the question· "Must Ramushwana pardon Netshirombeni and Nelukalo, as the LHR is now arguing?" and we can only hope that he asks this in ignorance rather than with mischievous intent He does however fall into the very common trap of believing that those who oppose the death penalty are "soft on crime" and seek the release of violent criminals As an Investigation Editor, Mr Tsedu should know better

LHR has in fact spearheaded many of the public outcries against the releases of criminals such as Jack le Grange, Robert van der Merwe, Kethani Shange and Samuel Jamile

What we are calling for is for Netshirombeni and Nelukalo to be given (and to serve) lengthy terms of imprisonment in place of the death penalty It is unfortunate that public confidence in the "staying power" of criminals has taken somewhat of a bashing recently because of government ineptitude and opportunism Nevertheless, we do not believe that one of our follies should lead us on to even greater ones

The crime committed by Netshirombeni and Nelukalo was horrific and macabre (as Tsedu correctly points out) and we believe that such crimes must be dealt with severely The perpetrators of such horrendous crimes must be removed from society to protect the innocent lives of children like Gundo We believe that they must also be given the opportunity to become rehabilitated and to repay their horrible debt to society Once dead they cannot do this

The history of ritual murders in Venda is well documented and this issue has become one through which political power has been won and lost A number of ritual murderers have been hanged in the past, both at Pretoria Maximum and in Thohoyandou yet these hangings have done nothing to deter those whose belief in the efficacy of such muti is strong The ritual murders continue to this day and will continue well into the future until such time as reason replaces superstition This will not be achieved through hanging

The death penalty is a penological dinosaur which belongs on the scrap heap of history along with the archaic forms of punishment which enjoyed their heyday during the Middle Ages

Revenge is the only cogent "argument" in favour of the death penalty and we think that South Africa has had enough revenge to last it for generations to come A society which is trying desperately to free itself from its bloody, violent and reactionary past can surely do without the sentiments to which Mr Tsedu is pandering

**Gundo Nemakhavhani ... killed by ritual murderers**

The fact is no one has ever proved capital punishment to be a deterrent. It is therefore short sighted and dangerous to rely on the death penalty as a solution to the serious ritual murder crisis which Venda forces

The danger behind using the death penalty is that it obscures the real complexities of the many social problems for which it is hailed as a panacea To place Netshirombeni and Nelukalo on the gallows as sacrificial animals, on the pretence that this will somehow prevent further ritual murders, is both dishonest and misleading However, this doesn't seem to bother Mr Tsedu as long as people had their appetite for revenge whetted

In addition to the principled argument against the use of the death penalty, there is a very specific (and political) argument against its use in South Africa at this stage of our history We hope that within a few months we will have an interim government in place, and it is our belief that this government may well abolish the use of the death penalty To execute persons at this stage is therefore entirely unacceptable, and this applies as strongly to the illegitimate homeland structures as well as it does to the illegitimate South African Government

Mr Tsedu ends his article by outlining the "dilemma" facing Brigadier Ramushwana — a political dilemma. He implies that we should not interfere in Brigadier Ramushwana's bid to cling onto political power by tampering with his political popularity — whose popularity will be reinforced through the execution of Netshirombeni and Nelukalo

A classic "ends justify the means" argument which we find deeply disturbing If the question of the death penalty can be used as an acceptable vote getter, then what else falls into this category?

At the end of the day we see very little difference between a military dictator who believes that he will stay in power by killing prisoners and a businessman who believes that he will prosper by killing children

**Mathatha Tsedu comments:**

The article referred to was an opinion piece in which I argued that the two men sentenced to death did not deserve any mercy, considering the gruesome killing of Gundo Nemakhavhani

Both Nel and McBride are entitled to differ with me, I still believe that the two should die I have spent time in Venda and understand the complexities of the situation of ritual killings

I am not arguing from a libertarian point which does not take cognisance of realities I said in my piece that military ruler Ramushwana, having come into power in a coup because of ritual killings in the area, has to take public opinion into consideration in his decision about the stay of execution

This is a fact. How lawyers can construe this as a defence for a military dictator is beyond the understanding of a simple journalist like me

They argue about Netshirombeni and Nelukalo as if the court application was a part of a struggle to unseat Ramushwana

If they have chosen to make that their preoccupation, they are entitled to act as they wish I had never seen the issue in those political terms and do not wish to do so now

# Hanging debate: Protest in city

CT 18/6/93 (25)

**Staff Reporter**

THE Black Sash held a 1½-hour placard demonstration against hanging at the St Mary's Cathredral outside Parliament yesterday

About 20 people, including members of Lawyers for Human Rights and high-profile members of the ANC such as Dr Albie Sachs, attended

In their statement, the Black Sash said hangings by the state did nothing to reduce levels of violence in society, did not serve as a deterrent and served "only to cheapen the value of human life"

"It would be a clear travesty of justice for people to be hanged now, who might otherwise be reprieved once a Bill of Rights is in place," said Ms Isie Pretorius

Dr Sachs said the debate in Parliament was irrelevant because Parliament represented a minority and its decision would not be legitimate

He said the government wanted to use the people now on death row as an example to show how strong they were in dealing with violence

whole page

(252)

# S. A. LAW:

## your guide to the legal profession

A Star and Sowetan Survey

# The law is there — use it

**■ It is your right to be represented in court:**

IN A democratic country, it is the right of every person to have access to the law, because it is the law that underpins democracy.

In the past — for historic and well known reasons — it has been difficult for the majority of South Africans to exercise this right As the new constitution is developed, based on a fundamental bill of rights, access to the law will be entrenched

But, there is a difference between enshrining the legal rights of all a country's peoples in a constitution and ensuring that, as the need arises, legal advice is readily available and affordable

A major problem in South Africa the number of people who appear daily in the country's criminal courts without legal representation.

As many as 80 percent of those accused and who stand trial fall into this category. Usually they can neither afford to pay the fees for a legal expert nor do they know that it is their right to be represented

This has led to many people being imprisoned who could otherwise have been released

**Mr Igna Kleysmith, president of the South African Law Society.**

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Ideally those appearing before the courts should be advised of their rights to representation and the availability of aid from the Legal Aid Board There is some criticism that this is not always the case and it is proposed that this should become obligatory. However, before such a rule could be enforced there would have to be sufficient funds and attorneys available to handle the volume of work that would result. At this stage this is not the case

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**CLIVE UNSWORTH**

# Legal help project is a big success

**■ CRIMINAL CASES** Aim is to reduce number of accused who are undefended:

IN JANUARY LAST YEAR, the country's first public defenders' office was opened in Johannesburg

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> **"In the first three months, some 770 applications were granted, which means as many as 3000 cases will be given aid during the full year"**

in South Africa's daily prison population, a financial saving of over R250 million could be achieved in a full year

### Positive signs

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### Practical training

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Since it is expected that some 4 800 students will graduate in 1994, and the profession will only have the capacity to grant articles to 2 000 of them, this scheme will go a long way to making up the balance for those who wish to qualify as attorneys

**NEWS FEATURE** *Fears that deal with multinational publishing company will lead to monopoly*

# Thebe not ANC's 'business wing'

**By Mzimkulu Malunga**

Officials of Thebe Investment Corporation are at pains to dispel any notion that the company is controlled by the African National Congress

"We have no direct relationship with the ANC," says managing director Vusi Khanyile

Those who label Thebe as the business wing of the ANC base their argument on the fact that most of its officials are either members or known sympathisers of the ANC

"When people work for the ANC and later leave the organisation, it does not mean the movement is involved in the projects those people are engaged in," said Khanyile, who used to work in the ANC's finance department

Since its inception, just about a year ago, Thebe has been doing business on the quiet until last month when news that it wanted to enter the school textbook publishing market through a joint venture with a multinational company, Macmillan, started circulating

There are fears that the proposed deal between Thebe and Macmillan would lead to a monopoly in the textbook publishing market under an ANC-dominated government

Khanyile said over the last three months intensive investigations of the feasibility of participating in publishing were undertaken and contacts were made with potential publishers in the South African market, including Macmillan

Contrary to reports, Khanyile said the company had not yet made deals with Macmillan

In response to the Macmillan affair, Khanyile said the decision to proceed with the publishing venture would depend on its viability

Khanyile also attacked those expressing concern over the political connotations of the proposed deal, saying that they themselves were linked to the Afrikaner establishment and the National Party

"To suggest that a black publishing company would only gain a position with a democratic government through corruption sounds very much like another way to keep black business out of the market," Khanyile said

Thebe was established by the Batho-Batho Trust, whose trustees include ANC president Nelson Mandela and his deputy, Walter Sisulu

## ■ SOLE SHAREHOLDER *Established by trust, whose members include Mandela:*

The trust remained the sole shareholder in Thebe The trustees did not benefit as individuals from profits generated by the company "For them it is a community project"

The ultimate aim was to convert Thebe into a public company and invite individuals to buy shares with the trust either relinquishing its share altogether or becoming just one of the stakeholders, Khanyile said

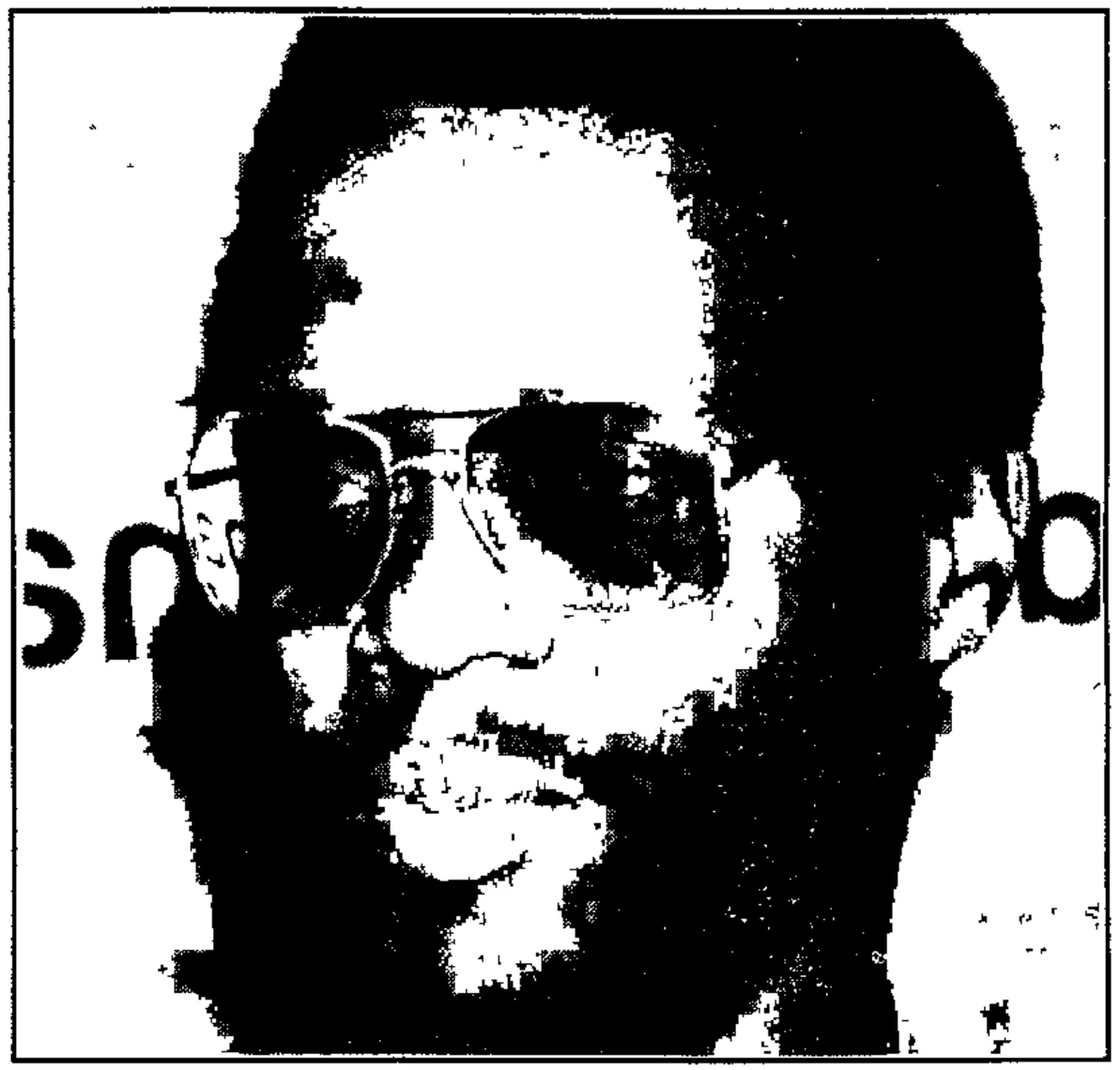
But the entity needed to establish a track record

Batho-Batho Trust's legal representative, Ismael Ayob, who is also Mandela's lawyer, said the funds with which the trust was set up were "modest" and came from "private sources" and not from the ANC

Other people, however, regard Thebe as the brainchild of the ANC's special projects department because Tokyo Sexwale sits on the board, an allegation emphatically denied by the company's general manager, Litha Nyhonyha

"From my understanding, the special projects department had a totally different brief altogether," he said

Though the company's management is uncomfortable about releasing figures, Thebe's investments, believed to be running into millions of rands, are spread across seven companies Some of the companies are wholly owned, others are joint ventures



**Vusi Khanyile ... managing director.**

The most publicised joint venture is Thebe's 45 percent shareholding in Bhekisizwe Computer Systems, which is one of the companies appointed to distribute products of the United States-based Digital Equipment Corporation

Other partners in Bhekisizwe are Vela International, which controls 20 percent and the Barlow Rand-owned Perstech, whose stake is 25 percent.

Other Thebe operations include an import-export company, Thebe Trading, which will operate fully after the lifting of sanctions, Oriole, a travel company, and three property companies The company also owns Movement Marketing Enterprise which markets and sells ANC T-shirts, bags, caps and other items Khanyile says this company is currently undergoing restructuring though he won't elaborate

In addition to Khanyile, Thebe's board of directors includes, Enos Mabuza (chairman), businesswoman Wendy Luhabe, property developer Lester Peteni, insurance official Gary Harlow and former official of the National African Federated Chamber Commerce and Industry Moss Nxumalo

# Hangings unlikely in spite of vote to scrap three-year moratorium

ARG 18/6/93 (252)

## ☐ Talks hope for 285 waiting on Death Row

MICHAEL MORRIS
Political Correspondent

PARLIAMENT has voted to lift the moratorium on the death penalty by 125 votes to 55

But little was expected to come of its support for scrapping the moratorium which is more than three years old because of the risk of imperilling the delicately poised negotiation process

And Nationalist Party hopes of a resounding vote in all three Houses were dashed by an 8-15 defeat in the House of Delegates where the NP has a majority of 21

In the House of Assembly 97 MPs supported lifting the moratorium while 24 were against The vote in the House of Representatives was 20 to 16

In all 129 of the full complement of 308 MPs were either absent — some are at the negotiations — or did not vote

Rounding off debate last night Justice Minister Mr Kobie Coetsee acknowledged that the vote was no more than part of a process of consultation that would continue with extra-parliamentary parties at the multi party negotiations at Kempton Park

Support for the government's motion would send a signal but would not lead to immediate executions he said

Nevertheless there was a realisation that the violent situation in the country demanded severe measures

Deputy Justice Minister Mrs Sheila Camerer described hanging as barbaric but added I can live with it while we battle to control the abnormal levels of crime and violence in our country

Ideally she would favour life imprisonment over the death penalty

Democratic Party leader Dr Zac de Beer dismissed the debate as an election stunt

And DP justice spokesman Mr Tony Leon said the government was merely trying to ride the tiger of public opinion by throwing a few chunks of red meat at it

The government had no intention of enacting the motion because it knew just one execution would probably derail negotiations lead to mass insurrection and international retaliation

We are indulging in a form of mass therapy for MPs which has everything to do with the need to look tough and nothing to do with solving the problems of violence lawlessness and anarchy

ANC MP Mr Dave Dalling said 'This whole, ill-timed debate is no more than a desperate part of the National Party campaign to shore up its crumbling support among whites

The ANC regarded this politicking with the lives of condemned people with disgust and contempt

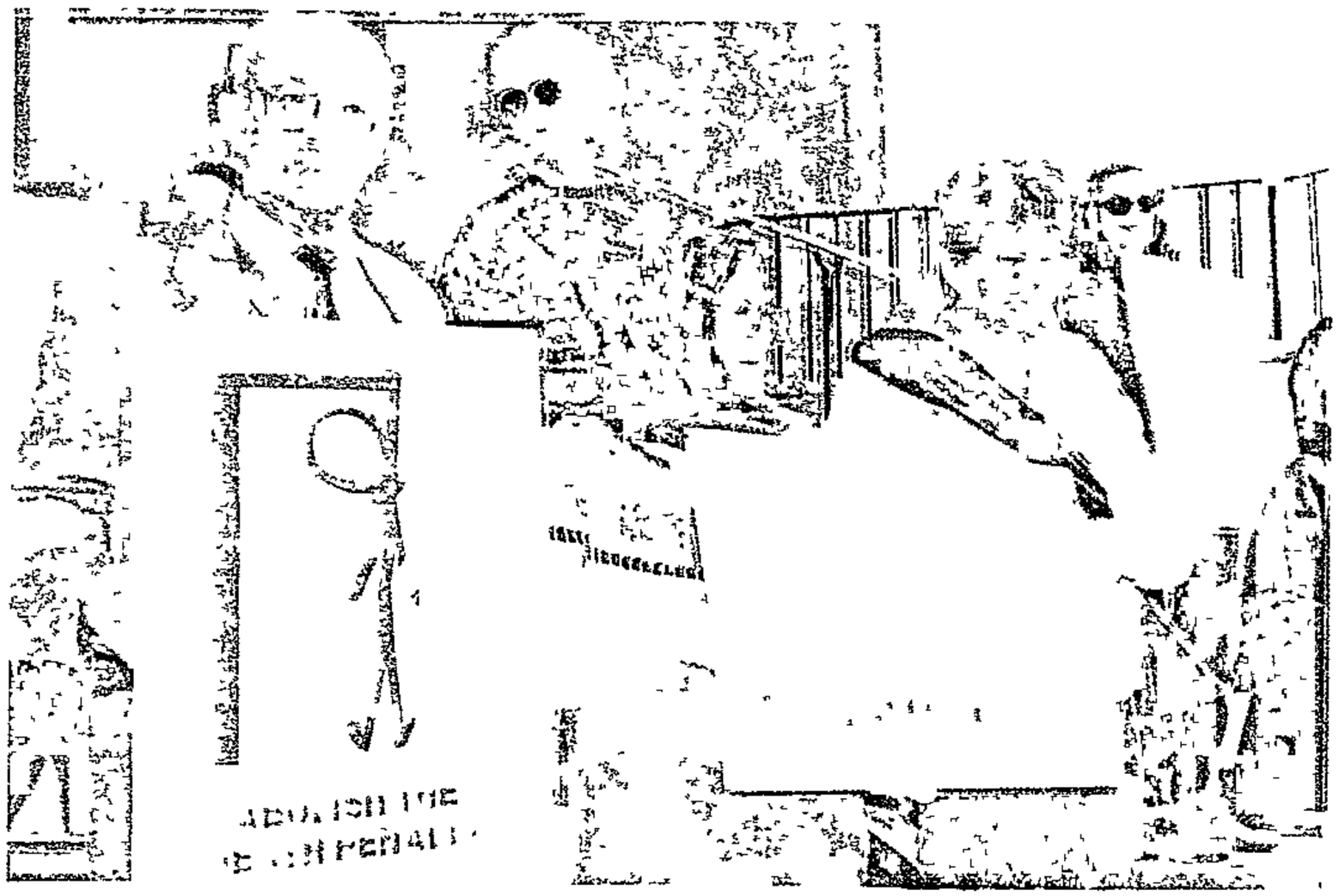
He said the issue should be left to a democratically elected constituent assembly

Conservative Party MP Mr Andrew Gerber accused the government of deliberately delaying a debate on the moratorium in the knowledge that the president would not have to bear the responsibility for executions

Parliament has been ridiculed by the government The imminent Transitional Executive Council will not allow the president to execute a single person, he said

He said the moratorium made a mockery of punishment handed down by the courts and was tantamount to a frustration of justice

● Of the 285 people on Death Row — some of whom have been there for several years — 51 have exhausted all avenues of appeal



Picture ANDREW INGRAM The Argus

**NOPE TO THE ROPE** Campaigner Mr Reggie September and Black Sash members demonstrate at St Mary's Cathedral

## Rape labelled a 'sport of Olympic standards'

CRIMINALS seemed to regard rape as an international sport of Olympic standards, Mr Benito Phillips (NP Border) said in the special debate on hanging

He said it was estimated that by the end of June there would have been 7 895 murders 42 927 robberies and 14 454 rapes this year

He supported lifting the moratorium on executions The death penalty was justified in Mosaic and natural law The question of whether it should be retained or abolished was not ethical, but theological.

Mr Wynand van Wyk (CP Witbank) said a government had to wield a sword in its hand as a servant of God

"We can't say to murderers, go on do what you want ' he said 'Murderers who are discovered must be punished

The problem was the government was now hand in glove with the evildoers, the ANC and the sword had been sheathed

Mr S K Louw (Ind) proposed leaving a decision to a democratically elected, fully representative constituent assembly — Sapa

## Debate only of academic significance, says lawyer

The Argus Correspondent (22)

JOHANNESBURG — The parliamentary debate which voted to lift the moratorium on hangings was of no more than academic significance, according to Lawyers for Human Rights director Brian Curren

According to Mr Curren, the moratorium, although initially announced by President F W de Klerk, was later an agreement in multi party negotiations which Mr De Klerk could not overturn ARG 18/6/93

"If the government were to try and go ahead with any executions, we consider them unconstitutional and would take the government to court to stop them,' Mr Curren said

According to Department of Correctional Services spokesman Brigadier Chris Olckers, there are currently 284 men on death row, and two women

Of those 229 are black, 32 Coloured, 20 white and three Indian The two women are black

Almond Nofomela is the longest inmate on death row, having been there for nearly six years The shortest is Wontsi Moti, who arrived on Tuesday

Chairman of the Society for the Abolition of the Death Penalty David Unterhalter said he regarded the vote as an election ploy by the government to show they were taking a tough stand on crime

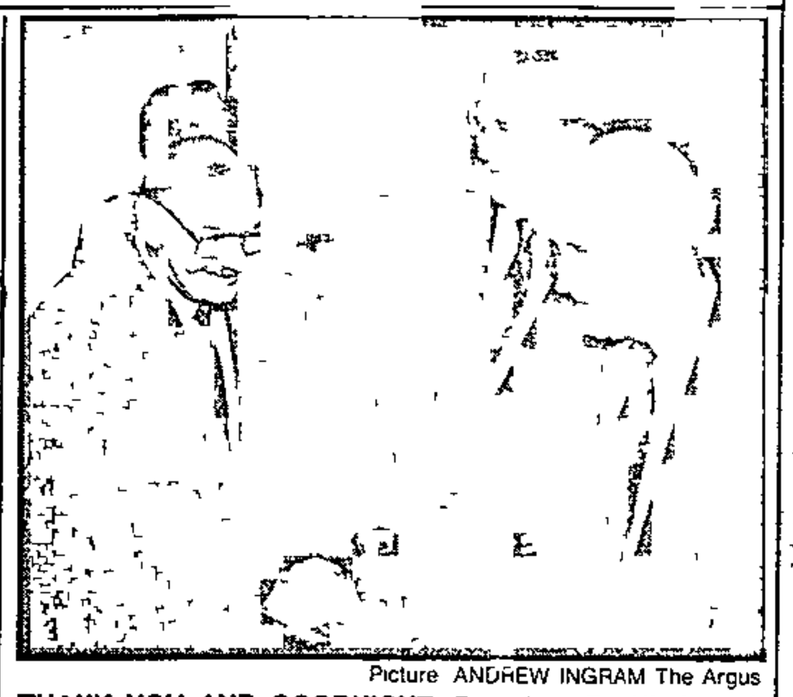
The vote exploited a parliament that was not in a position to make such decisions, Mr Unterhalter said He added that the vote was "a gratuitous form of super-added cruelty to what is already a very cruel form of punishment"

Democratic Party law and order spokesman Tony Leon agreed with Mr Unterhalter, but said when the National Party was fighting for its political life, people's lives become less important

ANC spokesman Ronnie Mamoepa said. "It is only a few months before a legitimate government will be able to discuss and debate these issues

"The government has neither the legitimacy nor the moral right to decide this issue on its own"

He added that the ANC would oppose capital punishment in the future



Picture ANDREW INGRAM The Argus

**THANK YOU AND GOODNIGHT** President De Klerk with President's Council chairman Dr Willie van Niekerk greets Professor J Cilliers at the council's last ceremonial session

## Democratic centre is emerging, says FW

ARG 18/6/93

TOS WENTZEL
Political Staff

A BROAD democratic centre was emerging and like minded parties should stop fighting each other President F W de Klerk said at the last meeting of the President's Council

He also said too much energy was being wasted by parties in supporting each other instead of using this energy to build a democratic centre

Such parties should rather address those which did not subscribe to the same democratic principles Mr De Klerk said

He welcomed the concept of the phasing-in of a new system through a Transitional Executive Council and a government a national unity

He was confident that efforts to achieve democratic stability would succeed

There would never be peace if the privileges and rights of part of the community were maintained at the cost of another section he said

There could only be one foundation for a safe future and that was the principle of justice for all

Efforts to have separate states in South Africa had failed Instead inter-dependence had developed along with economic realities which could not be ignored South Africans had a comon destiny

Mr De Klerk also reacted to a plea for the recognition of self determination made by a Conservative Party member of the council Dr S D Latsky

Mr De Klerk said the rich cultural diversity in the country had to be recognised

This included recognition of the right of parents to choose the language and the religious context in which they wanted their children to be educated

## Call to discipline Mokaba

Political Correspondent (12)

The National Party and the Democratic Party have called on the African National Congress to discipline its youth league leader Mr Peter Mokaba for chanting kill the farmer, kill the boer in Johannesburg this week at Soweto Day rallies ARG 18/6/93

This slogan has been identified by government sources as one of the inputs into a potentially dangerous white backlash against negotiations

There have been mixed signals from the ANC recently on whether the slogan has been officially dropped or not

NP media director Mr Marthinus van Schalkwyk said the NP would lay a charge with the National Peace Committee against Mr Mokaba asking that appropriate steps be taken against him

He said Mr Mokaba had decided to defy the ANC leadership The ANC had to now show it could discipline its members

# Death vote

(252)

CT 18/6/93

By BARRY STREEK
Political Staff

**A NATIONAL Party rebellion in the House of Delegates last night blocked a government move to get full parliamentary support for the resumption of hangings.**

The government had hoped it would get backing from all three Houses to support an end to the moratorium on hangings

Parliament passed the motion by an overall majority of 125 votes to 54 but in the National Party-controlled House of Delegates the vote went against the motion by eight to 14

MPs in all three houses voted separately under the old tricameral voting system

As it was a free vote, the loss in one House is not too significant, but in terms of the discredited tricameral system the NP suffered a setback last night — particularly embarrassing because it was incurred by the actions of some of its most recent black recruits

Overall, Parliament voted a massive 'Yes' to a resumption of executions — but hangings will not resume as a result. The government stressed yesterday that any decision to lift the moratorium on executions rested with President F W de Klerk.

It also said it would consult with all parties, including extra-parliamentary groups, before any decision to resume hangings was taken

## Contradicted

The Minister of Justice, Mr Kobie Coetsee, emphasised at the start of the special debate that support for the motion to lift the moratorium on executions did not in fact mean the summary lifting of the moratorium

His speech directly contradicted a statement over the weekend by the Deputy Minister of Law and Order, Mr Gert Myburgh, that the government would give effect to Parliament's decision, adding that he was convinced that the moratorium would be lifted and "executions will take place"

Mr Coetsee's opening speech poured cold water on yesterday's debate.

He was strongly criticised by the Democratic Party leader, Dr Zach de Beer, who accused the government of perpetrating an election stunt

The ANC's Mr David Dalling said his colleagues and the entire ANC regarded the government's vote as a form of politicking to shore up its crumbling support-base in the white community

The Labour Party's Mr Peter Hendrickse said: "It's a farce"

Mr Coetsee said Parliament had been asked for its opinion, but it should be regarded as part of the consultative process

During yesterday's debate it was revealed that

- 95% of those who had been hanged had been black and only 7% or 20 of 286 currently on death row were white, Mr Dalling said
- Fifty-one of the 286 people on death row had exhausted all avenues of appeal — including that to the President for clemency, Mr Coetsee disclosed yesterday
- Fifty-nine of the sentences were commuted last year Sentences ranging from life imprisonment to 15 years in jail had been substituted

FM 18/6/93

(252)

MISTAKE OF LAW

## Sensible move

**A judgment** of the Appellate Division of the Supreme Court has repudiated the common law rule that a payment made under mistake of law, unlike one made under mistake of fact, is irrecoverable In future a payer's mistake of law will, in some cases, form the basis for an action to recover the money paid

A mistake of fact could occur, for instance, in the case of a building contractor who issues a cheque in favour of a subcontractor on the erroneous assurance of a site foreman that a delivery of materials has been made A mistake of law could take place if a taxpayer (as in this case) paid tax on the basis of a legally incorrect statement from a Revenue official — that his particular circumstances lie within the wording of a tax statute

Moss Morris partner Selwyn Cohen says — in Willis Faber Enthoven vs Receiver of Revenue — the Appeal Court has again changed common law in accordance with the requirements of public policy

In this case, the taxpayer claimed repayment of tax paid under mistake of law — a remedy regarded by lawyers as excluded from SA law by the precedent of Rooth vs The State (reported in 1888)

The Appeal Court, in overturning Rooth vs The State on this issue, concludes there is no logic in this distinction between mistakes of fact and law, in the context of an action for recovery of money paid in error (an ancient remedy going back to the Roman law foundations of SA law)

In reversing the previously settled law, the Appeal Court was careful to qualify its judgment It was neither possible nor prudent, said the court, to define the circumstances in which an error of law could be said to be excusable Nor would the court provide a compendium of situations where it was not excusable However, if the payer's conduct was so slack that he did not deserve the protection of the law, he should not, as a matter of policy, receive it

But inexcusable slackness is not an absolute, so what is inexcusable in one case should not necessarily be regarded as slack in another Much would depend on the relationship between the parties, as well as the payer's state of mind and the culpability of his ignorance in making the payment

Thus a person who pays money while in doubt whether it is due, without bothering to find out, would not be entitled to recover Much would also depend on the conduct of the defendant, who might have been aware that there was no debt and whose conduct might have contributed to the other party's decision to pay

FM 18/6/93

(252)

In the latest case, the taxpayer made payments based on an interpretation by Revenue (contained in a circular) of a complex section of the Insurance Act (No 27 of 1943) The Act imposed a 2,5% tax on the total of all premiums paid during the preceding calendar year on Lloyd's policies as defined in that section

Acting on Revenue's interpretation, the taxpayer paid tax not only on policies effected through Lloyd's, and underwritten by one of its members, but also on policies effected or renewed through a broker at Lloyd's though not underwritten by it This situation was found by the Appeal Court to be too broad an interpretation

The court held that the complexities of contemporary legal and commercial practice had created a set of circumstances completely different from earlier times — circumstances which, like those of this case, might well entitle the payer to recover money paid under mistake of law It is also sometimes difficult, said the court, to decide whether a mistake is one of fact, law or based on both This is another reason for doing away with the distinction

Though not specifically mentioned in the judgment, the formulation of the requirements for recovery of money paid under mistake of law appear wide enough to cover a situation where a commercially unsophisticated person makes a payment under mistake of law The law, as now reformulated by the Appeal Court, would give redress in many situations where recovery was once barred Nothing but good can come from this aspect of the judgment ■

# Inquest edges ever closer to the truth

Star 18/6/93

**As South Africa's securocrats do battle in the Matthew Goniwe inquest, the State's dirtiest secrets are being exposed. HELEN GRANGE reports from Port Elizabeth.**

THE greatest irony of Matthew Goniwe's murder is that it provided the catalyst, eight years later, for an unprecedented and self-destructive split in the security forces — a split which has also given rise to the first realistic hope that Goniwe's killers will be identified

The story so far is that the SADF is attempting to implicate the police in the anti-apartheid activist's murder and the latter are counter-attacking by implicating the SADF.

The charred bodies of Goniwe, Sparrow Mkhonto, Sicelo Mhlawuli and Fort Calata were found on an eastern Cape roadside on June 27 1985.

The securocrats' initial unity in denying any complicity has given way to an intriguing internal witch-hunt, unexpected when the reopened inquest resumed in the Port Elizabeth Supreme Court on March 1.

Although the SADF, SAP and National Intelligence Service (NIS) each had legal teams present, only SADF counsel Anton Mostert, SC, was active, defending three officers allegedly involved in sending and receiving a signal requesting the "permanent removal from society" of Goniwe and three eastern Cape activists in 1985.

Then, without warning, on March 11, one of the officers, Colonel Lourens du Plessis, presented an affidavit to the court implicating two other officers in Goniwe's murder.

Du Plessis, the former Eastern Province Command staffer who drafted the signal, alleged that General "Joffel" van der Westhuizen, former EP Command commanding officer as a brigadier, and currently SADF Intelligence Chief of Staff, had sent the signal to former State Security Council member General Johannes van Rensburg.

He said the signal meant "to kill".

It was sent 20 days before the bodies were found

This unexpected development steered the inquest into unchartered territory.

Another postponement was necessary to allow Du Plessis to apply to the State President for indemnity from prosecution. Indemnity was granted at the end of March and proceedings were resumed on June 8, only to be swept in a completely different direction.

Without providing motivation, SAP counsel Doep de Bruyn asked for a week-long postponement, raising suspicions that evidence had emerged implicating the SAP

Few could have predicted the bombshell the SADF dropped this week

Mostert suggested that four men, including two security policemen, were murdered in a limpet mine explosion in 1989 because of their involvement in Goniwe's murder.

Major Gideon Nieuwoudt, a former captain with Port Elizabeth security police, had been behind the explosion, which was planned because the loyalty to the SAP of the two security policemen was under question

De Bruyn immediately criticised Mostert for trying to shift the spotlight off the SADF.

The suggestions were "a disgrace", De Bruyn said, appealing unsuccessfully to the court to put Du Plessis on the witness stand so that the original vein of proceedings could continue.

The inquest is now probing the alleged police involvement in not only Goniwe's death, but the murder of the four men in the 1989 limpet mine explosion.

Nieuwoudt, who claims he has received death threats in the wake of Mostert's submissions, is the new focus of the inquest and is expected to take the stand either today or on Monday. □

# Dune mining study rejected as a 'hoax'

Star 18/6/93

Own Correspondent

DURBAN — The St Lucia dune mining controversy heated up again yesterday when leading conservationists dismissed the 1 700-page environmental impact report as a "hoax"

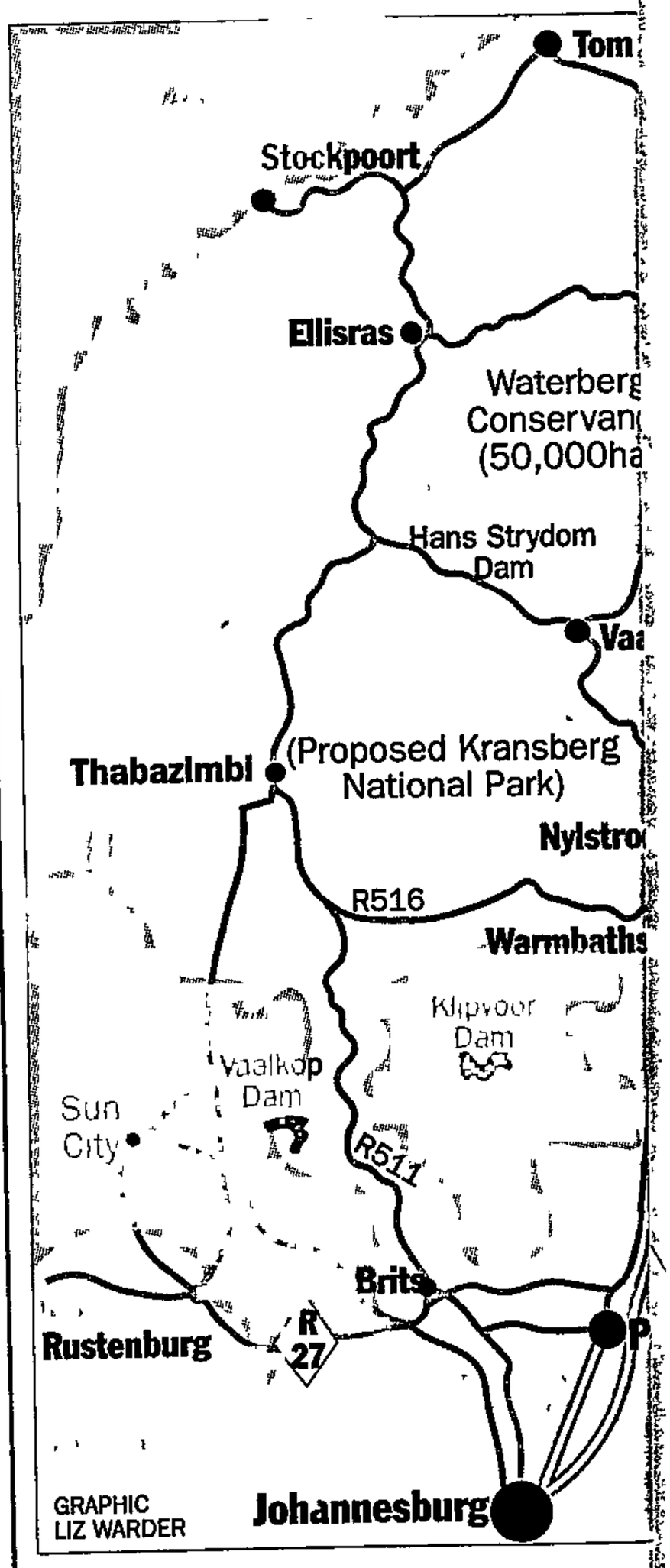
Members of the conservation movement are considering challenging the St Lucia dune mining report in court on the basis that certain decision-making procedures have not been adhered to properly.

Those expressing their support for the Campaign for St Lucia yesterday included Dr Ian Player, Democratic and Conservative MPs, senior representatives of the Wildlife Society, the Natal Parks Board, the SA Nature Foundation and the KwaZulu Bureau of Natural Resources

Wildlife Society spokesman Jeremy Ridl said: "This is not an environmental impact assessment that has been done. It is an attempt to justify mining."

The Government should "put the report aside" and look for other areas to mine. Ridl slammed the "voodoo economics" contained in the report and said its findings on job creation were "absolute nonsense".

Conservative Party MP Joseph Chiole said Parliament would block the dune mining proposals by a two-thirds majority if President de Klerk allowed his MPs to vote according to their consciences.




GRAPHIC
LIZ WARDER

# Conference to examine law's future

Star 18/6/93

Staff Reporter

Legal dignitaries will address a one-day Johannesburg conference on the future of South African law on Monday to celebrate the 125th anniversary of the law firm Webber Wentzel.

The conference will be addressed by Mr Justice Goldstone, who will discuss whether law and order can be restored in South Africa.

The Chief Justice, Mr Justice Corbett, will also address the conference, to be held at the Standard Bank headquarters in Simmonds Street.

The ANC's Penuell Maduna will speak on the legal profession's role in the new South Africa

Senior partner at Webber Wentzel, Peter Reynolds, said the firm wanted to ensure the legal system met the needs of a restructured South Africa.

"We wish to anticipate, in a meaningful forum, what will become of law in this country .. and we want to play a part in guiding this country's legal system along what we believe to be the proper channels."

# No decision yet on reinstating death penalty

TIM COHEN

CAPE TOWN — The fate of the 51 convicted murderers on death row is still undecided, in spite of a marathon debate on the resumption of the death penalty in Parliament yesterday. B/Day 18/6/93

Parliament was set to vote last night in favour of a motion calling for a lifting of the moratorium on the death penalty, but Justice Minister Kobie Coetsee said at the outset that Parliament's decision would not result in a summary lifting of the moratorium (252)

The decision to place a moratorium on executions was an executive order made by President F W de Klerk during his February 2 1990 speech, he said.

To catcalls from opposition benches, Coetsee said the debate would act only as a guide to De Klerk, and the final decision would be taken after consultation with parties outside Parliament

ANC-supporting independents and DP members accused government of engaging in an election stunt, arguing that the decision to lift the moratorium should be delayed until the negotiations process was complete.

Without formally adopting a position on the death penalty, DP members argued that it might be decided to include a right to life in a new Bill of Rights, and an immediate decision would be premature

Two opposition parties — the CP and independents from Inkatha — supported the government's proposal to suspend the moratorium, while the ANC supporters, the DP, Labour Party and Solidarity opposed the motion

Although NP members were given a free vote, a stream of government members argued that the climate of murder and lawlessness compelled Parliament to support the noose

DP leader Zach de Beer asked how many of the 297 inmates on death row, 51 of whom had exhausted all legal remedies, would be executed in the 10 months before the election.

He said this could mean that at least one person would have to be executed each working day

De Beer said it was a terrible responsi-

☐ To Page 2

## Death penalty

B/Day 18/6/93

☐ From Page 1

bility for Parliament to take and the only responsible decision was that nothing should be changed and no one should be executed until a fully representative government was installed

ANC member Dave Dalling accused government of playing with the lives of black people (252)

He said the death penalty had been used as a racist tool, and that 95% of people hanged before the moratorium in November 1990 had been black.

Deputy Justice Minister Sheila Camerer said although she did not support capital punishment, the measure could be justified in these times of lawlessness.

# Questioning the peace accord

Review/Law in W/Mail 18/6 - 24/6/93 (252)

●From PAGE 1

against whom would criminal penalties be imposed — against the individual who breached the code of conduct? Against local representatives of the organisation concerned? Against office bearers of the organisation? Against the organisation's president? The better view is that many forms of unacceptable political behaviour require political not criminal sanctions.

The National Peace Committee (NPC) has decided to propose a series of amendments to the Peace Accord to make it more effective. At the heart of the NPC's proposals will be a strengthened arbitration procedure to deal with breaches of the code of conduct. For the first time the Peace Accord will have teeth to deal with transgressors.

It is proposed that wherever possible, disputes regarding breaches of the code of conduct should be resolved within the peace committees If a dispute cannot be resolved there, it will be referred to arbitration and the arbitrator will be empowered to.

●Order the organisation to publicly repudiate the breach/breachor

●Order the organisation to apologise to those adversely affected by the breach

●Order the organisation to suspend those guilty of the breach for a specified period of time

●Order the organisation to expel persons responsible for serious or repeated breaches

●Prohibit persons guilty of breaches from appearing on public platforms of the organisations concerned for a specified period of time

The NPC still has to finalise those steps which should be taken to deal with organisations which refuse to abide by an arbitrator's order However, it seems clear that the essence of the sanctions will be political and will be designed to place the maximum pressure on organisations to comply with arbitrator's orders.

The maturing of the peace committees and the proposed strengthening of the accord come none too soon. The World Trade Centre negotiators have set April next year as the deadline for the holding of South Africa's first democratic election. The voting public is praying that the election will also be peaceful, free and fair

The negotiators will establish a multiplicity of structures to supervise the lead up to elections But the greatest hope for peace still lies in the thousands of grassroots meetings between members and supporters of rival political organisations which are held under the auspices of the Peace Accord If the birth of the new South Africa is a little more peaceful than the last few bloody years, we will have largely a strengthened Peace Accord to thank.

**●Mark Phillips is an attorney with Cheadle Thompson & Haysom. He is a member of the National Peace Accord sub-committee on strengthening the accord.**

# into a Bill of Rights

Consumer Law in W/mail 18/6-24/6/93 (252)

Cheryl Loots

courts went the other way We had this wonderful precedent, but they closed up and limited it."

However, even if the principle to allow class action in this country is accepted, a number of technical problems will have to be resolved

For example, under the system in the United States, everyone affected by a class action is bound by the judgment of the court on the issue, unless they previously "opted out". Should this country's new law carry a similar provision? Loots says this depends on the relief being claimed "If you are asking for an interdict or a declaratory order, then the judgment need not be binding on everyone But it is a more difficult question when those on behalf of whom the action is brought want monetary damages

"The US courts are sometimes faced with having to make a damages award, but without knowing how many people will have to share it They therefore tend to grant global damages, rather than make individual awards, and the total is put in trust Problems arise though if not everyone entitled to claim comes forward What should happen to the balance?"

She believes the chances are good that legislation allowing class action will be passed by parliament in this country "It is very necessary, because it must go in tandem with a Bill of Rights The Indian experience shows that it is all very well to have a Bill of Rights but you cannot enforce it unless there is the right to bring class and public interest actions"

# Proposals will grant wider access to lawyers

Review/Law in W/Mail 18/6 - 24/6/93. (252)

By DAVID MCQUOID-MASON

ACCESS to justice is a major problem in this country which the legal profession, the Legal Aid Board and the state all now recognise.

Some statistics illustrate the size of the problem. While the board granted legal aid to 45 000 applicants in criminal matters last year, the Department of Justice estimates that only 12 to 13 percent of about 684 000 accused who appeared in the District and Regional Courts during that year were represented. Furthermore, it is generally accepted that well over 100 000 people go to jail every year without legal representation.

Figures for unrepresented people in civil cases are more difficult to obtain, but it is common knowledge that the majority of civil judgments for debt in this country are uncontested.

Concern about the question of access to justice prompted a wide range of lawyers' groupings to co-host an Access to Justice Conference in Pretoria in October 1991. This in turn led to a number of proposals for changes to the legal profession.

Probably 80 percent of South Africa's legal practitioners are white, while 80 percent of the population is black. There are about 8 000 lawyers in this country for 40-million people and, contrary to what is sometimes claimed, even by African standards South Africa is not over-serviced by lawyers. About 90 percent of our legal practitioners are attorneys and a bottleneck has developed regarding access to the attorneys' profession. At present prospective candidate attorneys must serve a period of articles to gain admission. During 1992 about 2 350 B Proc and LLB candidates graduated. Only about half obtained articles. However, major changes are scheduled for later this year with legislation to broaden the basis on which law graduates may enter the attorneys' profession.

The new proposals will allow six routes into the attorneys' profession, all of which will require B Proc or LLB graduates to attend either the five-month full time School for Legal Practice (offered in Pretoria, Johannesburg, Cape Town and Durban), or a six week practical legal training course, and to write the Attorneys' Admission Examination. A major innovation has been the facility for graduates to do community service instead of articles during their internship.

The six routes are as follows:

- Two years articles, six weeks practical legal training course and examination
- Five months full-time School for Legal Practice, one year articles and exmination
- Five months full time School for Legal Practice, one year community service and examination
- One year articles, one year community service, six weeks practical legal training course and examination
- Two years community service, six weeks practical legal training course and examination
- Other forms of practice (for example, where returning exiles have practised in another country), six weeks practical legal training course and examination.

Community service may be done at an institution accredited by the local Law Society and is likely to include such organisations as Legal Aid Clinics, the Legal Resources Centres and Public Defenders Offices, as well as other recognised bodies providing legal services. Although the number of clerks who may be articled to a principal is limited to three, in the case of community organisations there are no limits. It has been suggested, however, that for public defenders a ratio of 15 interns to one supervising attorney would be workable.

Following the Access to Justice conference, the profession is also looking at introducing a "ladder system" whereby people will be able to enter the profession at different levels and proceed up the ladder.

These proposals are controversial but might work as follows: a candidate may qualify as a paralegal advisor by obtaining a paralegal diploma. Thereafter he or she might wish to convert the diploma to a B Juris degree giving the right to practice as a public defender. The B Juris could then be converted to a B Proc degree after one year's study, giving the right to become an attorney. After a further year's study the B Proc may be converted to an LLB degree so that the person could also practise in the Supreme Court if the bar and side bar were fused.

There may also be scope for "barefoot lawyers": for example, many of India's 600 000 laywers earn a living by working from their brief cases rather than sitting in offices, and they provide a valuable service to the poor in large informal sectors of the community. It may be that a new breed of lawyers will emerge in South Africa who are prepared to set up shop in the sprawling informal settlements surrounding large cities.

Changing the rules to help more people become lawyers is, however, not the only way to ensure better access to justice. There is also a need for justice to be made more accessible through other methods of dispute resolution such as mediation, arbitration, neighbourhood courts, more Small Claims Courts, and maybe even small criminal courts staffed by lay people. There is no doubt that the structures of the legal profession, no less than the country's political structures, will need to change if they are to have legitimacy.

- David McQuoid-Mason is dean of the faculty of law, Natal University.

# LRC turns 10

Review of law in (252)

THE Cape Town Legal Resources Centre celebrates its 10th anniversary in June. W/Mail 18/6-24/6/93

What started off as a modest enterprise with two attorneys and a secretary has grown into a regional office with seven attorneys, one advocate, two candidate attorneys and nine administrative staff.

The Cape Town LRC consults with about 50 clients a day and in the last 10 years has seen about 20 000 people. The office focuses on rural and urban work and serves areas from Namaqualand to George and Mossel Bay.

Regional director William Kerfoot said: "It is satisfying to reflect that we have had some impact on the western Cape community through our work, despite the hurdles of the past decade. We now hope to contribute towards the creation of a rights culture in a democratic society."

# Parliament votes in favour of hangings

Sowetan 18/6/93

(252)

■ **Govt to consult other groups:**

A MOTION by Minister of Justice Mr Kobie Coetsee to lift the moratorium on execution of the death penalty was passed by an overall majority of 125 votes to 54 in Parliament last night

In the National Party-controlled House of Delegates, the vote went against the motion by eight to 14

There are 45 seats in the House of Delegates ANC-supporting independent MPs cheered as the House of Delegates result was announced Solidarity members congratulated each other

In the House of Assembly the vote was 97 to 24, and in the House of Representatives 20 to 16

**Amendments defeated**

Amending motions by Mr Dave Dalling, the independent ANC MP for Sandton, Mr Sam Louw, independent MP for Rust-ter-Vaal, and Mr Peter Gastrow, DP MP for Durban Central, were defeated after divisions

Hangings, however, are not expected to be resumed immediately as the Government is expected to consult other groups outside Parliament

# No change yet on hangings

(252)

ARG 18/6/93

TOS WENTZEL
Political Staff

HANGINGS will not resume suddenly after yesterday's parliamentary vote in favour of lifting the moratorium on capital punishment.

This was made clear today by Minister of Justice Kobie Coetsee. But he has not excluded the possibility of a resumption of hangings before a new constitutional system is in place.

He said the parliamentary decision had placed the issue of hanging "pertinently on South Africa's agenda".

Consultations on the issue would continue. One of the levels at which consultations would take place was the constitutional negotiations, he said.

People were deeply worried about violence and murders. The number of condemned people was building up and the government was concerned about this.

In the end it would be the State President's decision, he said.

MPs, voting by conscience, last night backed hanging in a 125-55 vote after more than six hours of often fierce debate.

● See page 3

whole page

# THE STAR/SOWETAN ATTORNEYS SURVEY

252

# Making attorneys more accessible

THE thought of approaching an attorney is a matter of some concern for many people

Research carried out a few years ago by the Association of Law Societies indicated that people think attorneys will be expensive, slow and difficult to understand

In order to realise the ideal of making attorneys more accessible to the very people they are there to assist — the ordinary person — the profession has, in recent years, taken great strides in addressing these perceptions

A recent innovation by the Law Society of the Transvaal is the First Interview and Referral Scheme

Recognising that people who have little experience in using the services of an attorney may be inhibited by the thought of what they may be charged, this scheme permits attorneys to conduct the initial half hour interview for a nominal R25

This is sufficient time for the attorney to listen to the legal problem of the client and to be able to give advice on how the client should proceed

The advice may be to take the matter to the Small Claims Court, in which case the procedures will be explained, or the attorney may agree to deal with the matter personally

Attorneys recognise the concern people have regarding the cost of legal services and will therefore provide the client with a reasonable estimate of what the costs may be if the matter is pursued

But having been given this information, there is no obligation on the part of the client to employ the services of this particular attorney

Since most people have little cause to deal with an attorney in their everyday

## ■ Lawyers can advise us about any legal matters:

This may not be as haphazard as it appears because any registered attorney is fully qualified and trained to handle most legal matters

First, he or she must acquire a university degree (some may choose a path of study that requires two degrees)

In most cases this will involve some five years of intensive full time study Then the candidate attorney must be apprenticed to a law firm to serve two years of articles

Finally, admission examinations are written before the right to practise is conferred by the provincial law society

So, any listed attorney will be comprehensively conversant with aspects of the law In the First Interview and Referral Scheme, the Law Society will assist in putting potential clients in touch with attorneys

They maintain, in their Pretoria office, a register of Transvaal attorneys, and callers asking for an attorney will be directed to one in their own area

The names of participating attorneys are on a list and their names given to callers in strict rotation so that there is no favouritism

Should a problem arise between an attorney and client — such as the amount charged for the work, if the attorney takes too long to deal with the matter, if, in the client's view, the attorney is giving wrong advice or is even negligent — the Law Society has established an easy-to-access complaint and advice service

It is the Society's duty to protect the public and a call to the Directorate on its "hot line" will ensure that the reasonableness of the claim against the attorney is evaluated and advice given as to whether the matter should be pursued

It may be that the dispute will be heard and assessed within the Law Society, or that the client will be advised to take the matter to a civil court

If the Law Society feels that the complainant should be advised by another attorney, this interview could well qualify as an Initial Interview and cost only R25

**Mrs Esme du Plessis , first female member of the Association of Law Societies.**

# How law affects our lives

THE LAW regulates the way we run our live

Without it a state of anarchy would exist in hich people could behave in any way they liked

There would be no law to say that a per on could not steal it would be impossible to prove that you owned the property in which you lived and for hich you paid an agreed price, without a legal process marriages would not be recognised and a itizens we would have no entrenched rights to protect us against abuse by the State or h ouli individuals

Because the law covers so many aspects of our lives and because the law of today is the result of decisions in court and statutes passed in parliament over decades and even centuries, it is not always easy to understand or interpret.

For this reason lawyers — who spend many years studying at university, and who prior to being allowed to practise, are articled to a law firm for a period of time for practical training — are available to assist and advise us in this vital aspect of our livi

## ■ Scheme helps people with little experience of lawyers:

which the firm does business the collection of debts advice on labour and tax matters and, increasingly in these times of recession, the liquidation or closing down of a firm

In the event of a dispute causing you to appear in court attorneys will guide you through the court procedures and will represent you during the hearings

If your case is heard in the magistrate's court, an attorney will argue your case before the magistrate

Your case will be heard in the magistrate's court if your claim is less than R70 000 with certain exceptions such as in the case of a mortgage bond or with the agreement of the parties concerned

As matters present stand the attorney will brief an advocate to represent you if the case is to be heard in the Supreme Court

may present a problem

A recommendation from a friend or acquaintance is the best method But if this is not possible then there are other ways

Attorneys are listed in the Yellow Pages and it may be sufficient simply to choose one who is conveniently located

[illegible] a house from one owner to another to [illegible] with the completion of the establishment of a new office block or shopping centre

Businesses also have a continuing need for legal advice.

This may concern agreements between directors, partners and staff Other companies with [illegible] change when commission appointed by the Minister of Justice completes its investigation into rights of appearance for attorneys

[illegible] leader in the legal property industry

With many significant successful property developments to our credit we continually strive to provide and improve upon the highest possible level of expertise and quality of service.

Schoeman INCORPORATED

## ... AND ALLOW GROUPS TO ACT TOGETHER

# Bars to exposing conditions in prison

A planned test case on prison conditions was thwarted by officials **SHEHNAZ MEER** describes what happened at Pollsmoor

A RECENT attempt to challenge allegedly inhumane prison conditions at Pollsmoor Prison, thwarted at the last minute by prison officials, teaches several lessons: the contrast between prison conditions for black and white prisoners, the difficulties of integration, and the urgent need for a change in the law on standing to allow class actions

The planned application, which would have been a test case on prison conditions, arose out of dissatisfaction by white prisoners after Pollsmoor's integration in December 1991 White inmates had come to accept the standards of accommodation and hygiene in their comparatively spacious whites-only sections

Cells with only 18 inmates, single beds with complete bedding, hot and cold water, appetising food, adequate health care and spotless, vermin-free quarters, left them unprepared for the conditions of their black counterparts When they were integrated into these formerly blacks-only cells they could not accept the squalor, overcrowding and lack of hygiene They decided to challenge these conditions, together with their black fellow inmates, who until then had accepted this situation as the norm

The first efforts to obtain judicial intervention started in May 1992 when a white prisoner, Alan Matthews, who later became our client, complained during his trial to the judge, Mr Justice Lategan, about the conditions at Pollsmoor The judge instructed the prisoner's pro deo counsel to investigate However, even though the advocates submitted a report backing their client's complaints and damning the conditions at Pollsmoor, the judge made no order about the problem

The prisoner and other inmates then started preparing an application to compel the Department of Correctional Services and the authorities at Pollsmoor Prison to improve and upgrade prison conditions, claiming they violated certain provisions of the Consolidated Prison Regulations, the South African Department Orders (the Prison Standards Orders which apply to all the country's prisons), and United Nations' codes on prisons

In an affidavit prepared for the application, Matthews claimed "The experience of being removed from the civilised whites-only cells to the non-white cells was like travelling back in time"

In particular he complained about chronic overcrowding, with cells designed for 16 inmates accommodating more than twice that number, with one communal sleeping mat for eight men, bedding limited to two lice-infested blankets per person, cells maintained at below reasonably civilised minimum standards of hygiene, foul smelling, polluted with dagga and cigarette smoke, damp, poorly lit, badly ventilated and with hopelessly inadequate ablution facilities

His affidavit also chronicles widespread use of and exposure to dagga and Mandrax allegedly with the knowledge of prison warders, even though some inmates were required by order of court to undergo treatment for drug dependency, the absence of a rehabilitative programme, poor medical care, no religious counselling and the failure of prison authorities to investigate complaints He also complained that prisoners spend all but an hour a day cooped up under these conditions

The director of the Human Rights Watch prison project, a New York based organisation monitoring prison conditions around the world, supported the application Joanne Weschler visited Pollsmoor in August last year with other Human Rights Watch officials, as part of a fact finding tour of local prisons In her affidavit she refers to "dramatically greater overcrowding" and "filthy and unsanitary conditions" at Pollsmoor She also quotes the prison head as informing her that while the stated capacity of the prison was 1 619, at the time of her visit it accommodated 3 192

On the eve of the court application to improve these conditions, the prison authorities effectively put a stop to it by prohibiting further legal consultations

Citing a non-existent provision of Prison Regulation 123, the prison head claimed that prisoners could only consult a lawyer if they had letters requesting such a consultation

Requests by the LRC to consult about the termination of their mandate were refused until a letter was produced by the LRC from their client, stating that he wished to continue with the case Although permission was then granted for a legal consultation, when the LRC arrived at the prison for an interview, the authorities said Matthews had been transferred to the Transvaal two days previously

Thus Pollsmoor Prison officials effect-ively aborted what had promised to be a seminal case on prison conditions by cutting off access to our clients Equally to blame though is the present law on *locus standi* which insists that in an application such as this, only prisoners themselves or their close relatives can be litigants. Our law does not yet allow a public spirited individual to bring a case clearly in the interests of the community, unless the individual is personally affected Sadly therefore, until the law changes, or the ideal circumstances present themselves, an application such as this must be put on hold

● The Department of Correctional Services comments "The Commissioner of Correctional Services has twice invited the LRC to discuss any problem they may encounter in serving their clients, directly with the regional commissioner of the western Cape or with the commissioner's office in Pretoria The LRC did not make use of the invitation

"The prisoners who allegedly planned the action against prison conditions indicated in a written affidavit that they were no longer interested in such a case The allegation that the action was 'thwarted at the last minute' by officials is rejected

"Prisoner Matthews did not apply to consult with a lawyer in accordance with normal procedures. As soon as this was established, and that the prisoners did not want to proceed with the action, the head of the prison discontinued the legal visits

"The prisoner was then transferred to Durban to stand trial on further charges His transfer was by no means an effort to 'abort' the action. He is free to approach his lawyer at any time through normal channels to assist him in any legal matter

"The claim that there is racial discrimination in prisons is rejected The same facilities are being used by black and white and the same policy applies to all races The department also uses a sound classification system which has nothing to do with the race of the prisoners The allegations that food served to whites was more appetising, that there was a difference in health care and that only whites had hot and cold water, are unfounded

"Further allegations such as the absence of rehabilitation programmes, poor medical care, no religious counselling and failure of prison authorities to investigate complaints are also untrue

"The lice-infected blankets have been dealt with and the matter is completely under control. This also forms part of a maintenance programme to upgrade the maximum security prison at Pollsmoor In this regard a private contractor has been appointed to deal with all the major works whilst the dpeartment manages minor works The programme is scheduled for completion in the 1994/5 financial year at an estimated cost of R4 240 000

"The serious overcrowding problems which the department is experiencing at the Pollsmoor maximum prison, arising out of the upsurge in the crime rate, is well known"

● Shehnaz Meer is an attorney with the Legal Resources Centre, Cape Town.

LRC Review in

# Close examination of the medical kind

W/Mail 18/6 - 24/6/93

(252)

BEFORE Mahendra Chetty started working at the Johannesburg LRC as an attorney, he never dreamt that he would become so well-informed about the medical problems of Aids patients And Matthew Walton in the Cape Town office never thought he would get to know so much about the disfigurement skin lighteners can cause

But clearly, if a man comes to the LRC after having been bitten in the groin by a dog and having become impotent as a result, or a woman arrives with a needle left in her uterus after having had a Caesarian operation, the lawyers handling their cases need to co-operate closely with medical experts when assessing claims for damages Unlawful shootings are another area leading to many damages claims

In all these cases, the LRC has to work closely with medical specialists — neurosurgeons, psychiatrists, orthopaedic surgeons, pathologists Expert medical opinions do not come cheap, but the importance of the evidence in a damages case can make an enormous difference to a client's life

The LRC deals with a considerable number of cases where close co-operation with medical experts is necessary Aids is a relatively new area of work.

One important Aids-related issue is whether an employee may be dismissed purely on the grounds of testing HIV-positive Lawyers increasingly encounter people who were tested for Aids by their employers, often on a false pretext such as being asked to donate blood, and were then dismissed when found to be HIV-positive

Reinstatement actions in the Industrial Court have produced favourable settlements in some cases, usually in the form of retrenchment packages To sue each time deals with the individual case, but the practice needs to be addressed and the LRC aims to help educate employers

Many domestic workers have approached the LRC on this issue recently Their employers require them to have an Aids test, and they are generally advised to have the test as those who refuse are usually dismissed

Workmen's Compensation Act cases inevitably draw in the medical profession The Cape Town office has brought cases to challenge exclusions from the Act and the Occupational Diseases schedule Objections are also made against low assessments of permanent disability. The office has called for the publication of important case decisions in order to give guidelines, and has submitted proposals regarding the new draft Bill

> Lawyers work often demands co-operation with medical specialists on a wide range of topics — from a dog bite to health problems arising in the workplace

In the case of *Brutus Nyaka v Everite*, a worker died of lung cancer as a result of exposure to asbestos for 25 years at the factory where he worked There is a considerable body of evidence linking his illness to his occupation, but in terms of South African law, a worker cannot be compensated for contracting lung cancer at work. His compensation application was therefore unsuccessful, but a summons on behalf of his widow has been issued for damages

The Durban office has worked with clients who suffered occupational illnesses due to contact with chrome dust at the Chrome Chemicals factory, a subsidiary of the German Bayer group.

The workers suffered nasal septum perforations and chronic sinus problems The LRC worked closely with the Industrial Health Unit at the University of Natal and met with support groups from Germany who are attempting to extract an ex-gratia payment from Bayer.

Workers are limited to the Workmen's Compensation payouts, which were initially assessed at three percent, calculated on the workers' wages as at the date of first diagnosis — which for many of the Chrome Chemicals workers was over 20 years ago.

Claims were lodged on behalf of a large number of these workers, as well as applications for increased compensation The compensation was increased to 15 percent, though calculated on the same basis Appeals have been lodged against the degree of compensation as well as the basis for calculating it

Clients who suffered health problems after working at the Western Platinum Refinery received settlement payments of R5 000 each and a company undertaking that it would help them to obtain the statutory compensation available in terms of the Occupation Diseases in Mines and Works Act

The Pretoria office was instructed by over 100 workers at a vanadium mine in Bophuthatswana Vanadium is linked to numerous medical problems The National Centre for Occupational Health concluded in its report that a more comprehensive approach to occupational health and safety was required at the mine

The real solution to these issues lies in enforcing strict safety measures in the workplace, rather than in dealing on a case-by-case basis

While on the one hand needing their input, the LRC is also sometimes required to sue the medical profession The Cape Town office succeeded in getting a contribution towards emotional shock in the cases of the deaths of two babies who were given a poisonous fluid instead of one to combat dehydration The hospital was held to have been negligent and clients' claims were settled for R20 000

In a case handled by the Johannesburg office, a woman's baby died of cerebral asphyxia 18 hours after birth because the delivery was held back by a nurse who feared the doctor's wrath if the child was born before he arrived An inquest is to be held into the cause of death and an action for damages may be instituted

Sixteen-year-old Nopinki, whose mother had reason to believe she had been assaulted in detention and made an urgent court application for reports about her condition. The outcome could prove to be an important safeguard for other security detainees

# Landmark ruling in favour of detainees

LRC Review in W/Mail 18/6 - 24/6/93

(252)

A JUDGMENT handed down recently by the Appellate Division significantly advances the rights of security detainees and their families. The court ruled that the medical report of a district surgeon who had visited a detainee may be seen by the detainee's family.

The judges said the Internal Security Act "did not intend that evidence of unlawful conduct on the part of custodians and interrogators should be suppressed".

This could prove to be an important safeguard against assault while in detention.

In the case, the Port Elizabeth LRC acted for the mother of a 16-year-old teenager who, together with several other minors, was detained in terms of Section 29 of the Internal Security Act in 1991.

The mother, who had reason to believe her daughter, Nopinki, had been assaulted in detention, launched an urgent Supreme Court application for a restraining order and for the reports about Nopinki's condition by the district surgeon and magistrate who had visited her to be made available.

The application was turned down, but was taken on appeal.

While the children had been released in the meantime, an important principle was established by the AD ruling.

Argument hinged on the interpretation of Section 29(7)(b) of the Act, in terms of which no person is entitled to any "official information" about visits to detainees.

The state argued that this meant all information, whether personal, security or otherwise.

The AD found that there was nothing in the Act or its regulations to indicate that such visits were for any reason other than to make reports in the interests of the detainees.

There could be no sound reason why access to personal information should be banned, and if there was difficulty in distinguishing between personal and security information (which may not be disclosed), it would be up to a judge to examine the document and make the decision.

Rand Daily Mail 18/6-24/6/83

**SOUTH AFRICA could soon become a member of the International Association for Philosophy of Law and Social Philosophy, one of the oldest and most influential of such bodies in the world.**

**A steering committee has been set up to do the preparatory work for membership application. The committee is convened by law professor Christof Heyns of the Centre for Human Rights, University of Pretoria, who is to give a paper at this year's conference of the association to be held in Iceland.**

**The association was formed in 1909 in Germany, but now has 42 national members and several thousand individuals members. It is becoming an increasingly important medium for exploring the difficulties in law and politics within the unified European Community, and the relationships between the developed nations and the Third World.**

**●For further information contact Heyns at (012) 420-3034**

# Enter the great debate

Review Law Soc Wmail 18/6-24/6/93. (252)

THE second Southern African Moot Court competition is to be held in Lusaka, Zambia, July 8-11 1993. All university law faculties and the chief justices of all African countries south of the equator have been invited to attend. It is expected that student teams and law deans from more than 30 universities, and the chief justices of 15 countries will participate.

The theme of the competition continues the debate from last year's competition in Harare: "Southern Africa, from human wrongs to human rights". The judges, sitting as a hypothetical Southern African Court of Human Rights, will adjudicate the cases on the basis of the Universal Declaration of Human Rights and the African Charter of Human and People's Rights.

Two problems will be argued: one dealing with the death penalty and indemnity; the other with squatting. The competition dates were selected to ensure students from all over the region could combine participation in the conference with a visit to Zambia.

●Contact Jeremy Sarkin at (021) 959-3318 or Frans Viljoen at (012) 420-2393

# Briefs

■ THE LRC's outreach has extended as far as Uganda. Charles Owor, a Ugandan lawyer was so impressed by what he read about the LRC that he has proposed starting a centre there using the same name.

There are similar centres in Namibia which the LRC helped to form, and in Zimbabwe which consulted the LRC before starting up.

The Johannesburg office recently hosted two advocates from the Lesotho Federation of Women Lawyers, in preparation for setting up a legal aid clinic in Lesotho.

The Johannesburg office has also been contacted by the attorney-general's office in Swaziland asking for help in setting up a legal aid programme and has been approached about possible co-operation in developing a rights awareness campaign and an access to justice programme in Zambia.

■ An attorney at the Cape Town office, Wallace Mgoqi, has been appointed to the council of the University of Cape Town.

LRC Reaches Far Afield

Star 16-24/6/93

# The unacceptable face of capitalism

(252)

Review Law in W Mail 18/6 - 24/6/93

A company that has [illegible] people [illegible] money [illegible] standard debt [illegible]

By MATTHEW WALTON

A NATIONAL debt-collecting operation has been trenchantly criticised in a magistrate's court judgment, with its treatment of a debtor labelled "the unacceptable face of capitalism".

Snyman & Vennote is a group of companies with 100 offices that run through the alphabet from Alberton in the north to Wynberg in the south. Group managing director Eugene Joubert says they collect debts from more than 1,5-million debtors each year. At a conservative estimate the turnover of the Snyman & Vennote operation therefore exceeds R100-million a year.

Lena Wilson's story illustrates why it is essential that the law should allow class actions in cases like this Her plight eventually came to the attention of the courts after the Cape Town Legal Resources Centre brought an action on her behalf. But there are hundreds of thousands of others against whom Snyman continues to act.

Unless Wilson's experience is unique — and some 30 other cases handled by the Cape Town LRC suggest strongly it is not — Snyman's right to claim some or all of the money it is demanding and collecting from them is highly questionable — and the law offers little help.

In 1988, Wilson bought a music centre from Furniture Fair on instalments. Because of financial difficulty she did not pay the last R195.

In May 1991, although Wilson knew nothing about it, Snyman took over her debt from Furniture Fair. The two companies signed a standard form agreement, prepared by Snyman. Serious doubt was cast by the court on the validity of this form in the Wilson case, but indications are that the company is continuing to collect debts taken over with this form.

Once Wilson's debt was handed over to Snyman it just kept growing. On the day Wilson's debt was entered into Snyman's books, and by a process that has never been explained, it grew instantly from R195 to R395.

Snyman had the opportunity to explain this in its court papers, but declined to do so. On the same day Snyman added two amounts to this "new" capital debt of R395: "a proportioned necessary tracing and admin-istration fee" of R110 and interest charges of R48.

Thus in Snyman's hands, Wilson's debt jumped overnight from R195 to R553 — more than 200 percent. Each month thereafter, the company added 18,5 percent compound interest.

In July 1991, she received a letter warning her to call at Snymans to prevent "summary summons in connection with an extremely serious matter". A member of Snyman's staff told her to sign a document and to pay R71 a month to the company.

When her case came to court it turned out that the document she signed was an "admission of liability" in terms of which she admitted indebtedness to an unnamed "plaintiff". Wilson also told the court she did not understand the document she signed.

For four months, Wilson paid the R71. By her calculations, this then cleared her debt to Furniture Fair. However after making her fourth payment, she asked Snyman's staff how much she still owed. She was told her debt was R373 — despite the fact that she had paid Snyman R284.

Wilson decided to pay nothing more, but she began receiving letters from the company in which they threatened to take a civil judgment against her, to obtain an order attaching part of her wages, and to have her imprisoned. This drove Wilson to consult the LRC.

First, the LRC obtained an interim order against Snyman, then the matter went to court. The court ruled that Snyman had had no right to claim any payments from Wilson, made the interim order final and ordered Snyman to pay the cost of the action.

The Wynberg magistrate who heard the case ruled that the attempted cession by Furniture Fair of Wilson's debt to Snyman was not proper or complete, and cast severe doubt on the validity of the Snyman standard form cession agreement.

The magistrate also found the "admission of liability" signed by Wilson was invalid, among other reasons because the "plaintiff" to whom the "debt" was owed was not identified. The magistrate referred to the document as "objectionable" and "a crude attempt" to circumvent the Credit Agreements Act.

The court ruled also that Snyman was not entitled to the R110 tracing and administration fee in Wilson's case.

If the Wynberg magistrate's findings are correct — and Snyman has not appealed the judgment — then all other debtors whom Snyman has pursued in the same manner and with the methods as in the Wilson case, have a claim for repayment. The judgment therefore has potentially far-reaching implications for people who have paid money to Snyman.

● Joubert said no generalisation should be made from one case especially since Snyman was granted about 2 000 applications for judgment in its favour every month. He added that all the company's actions and documentation were regularly screened by senior counsel to ensure the company acted ethically and legally.

● Matthew Walton is an attorney with the LRC in Cape Town.

B/Day 18/6/93

# Counsel tells of death threats

PORT ELIZABETH — SAP senior counsel Pieter du Bruyn told the Goniwe inquest yesterday that he and a client, Maj Deon Nieuwoudt, had received death threats.

The threats follow allegations made at the inquest on Monday that Nieuwoudt, a former member of the Port Elizabeth security branch, might have information regarding the murder of Matthew Goniwe and three other activists in 1985 and the subsequent murder of three policemen and an informer in 1989 (251) (254)

Du Bruyn said he had received a death threat on Wednesday morning He was told that he was being watched and that he and Nieuwoudt would be killed.

Giving evidence at the inquest yesterday former Cradock security branch head Col Eric Winter acknowledged that they had known Goniwe would be driving from Port Elizabeth to Cradock three days before he was murdered on the return trip

Counsel for the families of the deceased George Bizos submitted to Winter that the police had been concerned that Goniwe was about to be reinstated as a principal, allowing him to politicise schoolchildren.

Winter denied this and said he had regarded Goniwe as an enemy of the state, but never as dangerous.

Bizos also submitted that it was improper for the officer who had investigated the murder of the activists to have supplied Winter with details of the murder as he and the security police in general had been regarded as prime suspects

Winter denied this, saying he had not regarded himself or the security police as suspects. (252)

Earlier Winter denied having detailed knowledge of the murders Bizos then presented a detailed report on the murder written and signed by Winter Winter then said it was impossible to remember what had happened seven years ago — Sapa

# Exotic wood no boat

CAPE TOWN — They searched hither, they searched thither and dug up the policemen's cricket pitch — but they failed to find a Phoenician galley.

According to a statement released by Cape Town University's archeology department yesterday, tests on wood unearthed in the Pinelands police sports fields showed it was at least 44 000 years old — and came from indigenous trees The find scotched the theory that the two pieces of wood came from a Phoenician galley.

The investigation was initiated early this year after attorney Bernard O'Sullivan read a 1925 article by anthropologist Raymond Dart, which said workmen in the 1800s had found the remains of "what was presumably an ancient galley" in the area

**Own Correspondent**

This suggested a seafaring presence in southern African waters long before the Portuguese

Two pieces of wood found during excavations in 1989 were dated to about AD110 and the the 15th century respectively

"The wood anatomical analysis suggested that both pieces were from trees which grew in Mediterranean climates."

On the basis of this O'Sullivan commissioned the department to excavate for more wood This resulted in the discovery of the 44 000-year-old wood

"The context of the the ancient exotic woods found by O'Sullivan remains unresolved Work will be continued by all parties until an adequate explanation is obtained," the statement said

# Apla security deaths claim

B/Day 18/6/93

WINDHOEK — A senior Apla official yesterday claimed the PAC's armed wing had killed 90 members of the security forces this year and said the police and army remained legitimate targets, regardless of race. (249) (251)

Apla military wing training director Willie Brown said in Windhoek yesterday police were part of the system Apla intended to overthrow "We reject the notion that black police are part of the oppressed — they are propping up the system, which makes them legitimate targets."

Apla chief political commissar Romero Daniels said his organisation had carried out 120 missions this year, about 80 in rural areas It had lost one member and had two or three arrested — Sapa

# Violators of convention 'should not hold rank'

B/Day 18/6/93

RAY HARTLEY

ANC officials who violated the fundamental assumptions of the Geneva Convention, which the ANC adopted in 1980, should be disqualified in future from leadership roles in the armed forces, an ANC official said yesterday.

ANC NEC member and human rights expert Prof Kader Asmal yesterday told the Motsuenyane commission — investigating alleged abuses in ANC camps — that the ANC was bound by the convention's moral assumptions even though detainees held in ANC camps did not qualify as political prisoners.

Asmal said only "combatants" of SA government forces, held after surrendering or being injured in battle, would qualify as political prisoners in terms of the convention.

But as far as he was aware, the ANC had never held such prisoners.

The ANC leadership would have to accept collective responsibility for abuses if these were found to be "systematic, persistent and large scale".

"It is a matter of pride for me that the ANC is the first liberation movement to hold an inquiry of this kind," he said.

Wrongs committed by the ANC in exile could not be compared to crimes committed by the apartheid state. The British bombing of Dresden was, in his opinion, a war crime, but no one had equated this to the crimes committed in Nazi concentration camps, he said.

"There can never be an equation between the acts of the victim ... and the extraordinary murderous intent of the aggressor," he said.

Asmal said a clause in the ANC's Freedom Charter opposing detention without trial, had not applied to the ANC in exile as the document was "a people's charter for a future government".

He said that when the charter had been drafted in 1955, the ANC had not anticipated it would be banned and forced into exile.

ANC soldiers who disobeyed orders to engage Unita in Angola and those who ignored subsequent instructions to hand over their arms qualified as mutineers in terms of international law, he said.

Asmal testified the ANC had a long human rights record. It had been the first liberation movement to adopt a bill of rights in 1943, and had made nonracial claims in the Freedom Charter in 1955 while the SA government was implementing racist laws.

He paid tribute to the "extraordinary humanism" of late ANC chairman Oliver Tambo, who had initiated the drafting of a code of conduct for ANC and MK members in 1985.

The code had been adopted in spite of the "claustrophobic context" of SADF assaults on ANC camps.

ANC president Nelson Mandela's bodyguard Basil Mavuso, who was known as "Jomo Sono" while in exile, earlier denied participating in the torture of Gabriel Sethloke.

Sethloke, who is still a member of the ANC, had testified that he was beaten on the soles of his feet with a baton during interrogation and hung from a pole while in handcuffs.

# Cause of boy's death unknown, court finds

Star 18/6/90

By Gien Elsas
West Rand Bureau

252

A Carletonville inquest court magistrate was yesterday unable to determine the cause of death of a 16-year-old boy who died on January 16 1990 while in police custody

Magistrate Charmaine Potgieter said the cause of Nickson Phiri's death had not been established in evidence before the court and added that no one could be held accountable

She said there had been so much contradictory evidence — both by the police and the family — that she was unable to make a finding

Nickson collapsed while being interrogated at the Welverdiend police station after being arrested According to evidence, he started breathing heavily while being questioned He started shaking and fell into unconsciousness

When senior SAP officers arrived at the scene, Nickson was dead The officer in charge did not deem it necessary to have photographs taken of the body

Nor was the boy's name entered in an occurrence register

This was the second finding made on Nickson's death The family asked for a formal inquest to be held after expressing their dissatisfaction when the first finding — that the cause of death could not be determined and no one could be held responsible — was made

# Death penalty debate 'futile'

Star 18/6/93

(252)

By Chris Whitfield
Political Correspondent

CAPE TOWN — National Party hopes for an overwhelming victory in last night's hanging debate were dashed when it failed to get a majority in the House of Delegates.

Three NP MPs in the House of Delegates took the opportunity of a rare "free vote" to oppose Justice Minister Kobie Coetsee's motion calling for a lifting on the moratorium on the death sentence

The vote in that House went 14-8 against the motion

The NP, with the support of the Conservative Party and the Afrikaner Volksunie, won convincingly in the House of Assembly by 97 votes to 24 and by 20 to 16 in the House of Representatives — a vote that could have been closer if some Labour Party members had not boycotted proceedings.

The combined vote of 125-54 for the motion is, however, highly unlikely to have any practical effect — opposition speakers made the point repeatedly in the 5½-hour debate by calling it an "exercise in futility"

The 51 people — among a total of 285 — on Death Row who have exhausted all avenues of appeal or reprieve will not immediately go to Pretoria's gallows as a result.

Instead, Coetsee revealed when he introduced the motion, the debate was seen as just one part of a "consultation process" which would include the negotiators at the World Trade Centre

## Sharp exchanges

It appears highly unlikely the Goverment will make any move on the issue before it is replaced by an interim government of national unity.

Last night's debate was marked by some fiery rhetoric, sharp exchanges and a stream of Biblical references

NP speakers generally toed the party line. Their only substantial support came from the white right-wing

The Democratic Party, the ANC, the IFP, Labour Party and Solidarity opposed the motion.

DP MP for Houghton Tony Leon said the Government was trying to ride the tiger of public opinion by "throwing a few chunks of meat at it"

ANC MPs were particularly critical, with Sandton's David Dalling saying the organisation regarded the debate as "no more than a desperate part of the NP campaign to shore up its crumbling support base in the white community"

The CP was strongly in favour of an end to the moratorium, with Brits MP Andrew Gerber saying it was an invitation to slogans such as "Kill the Boer, Kill the Farmer"

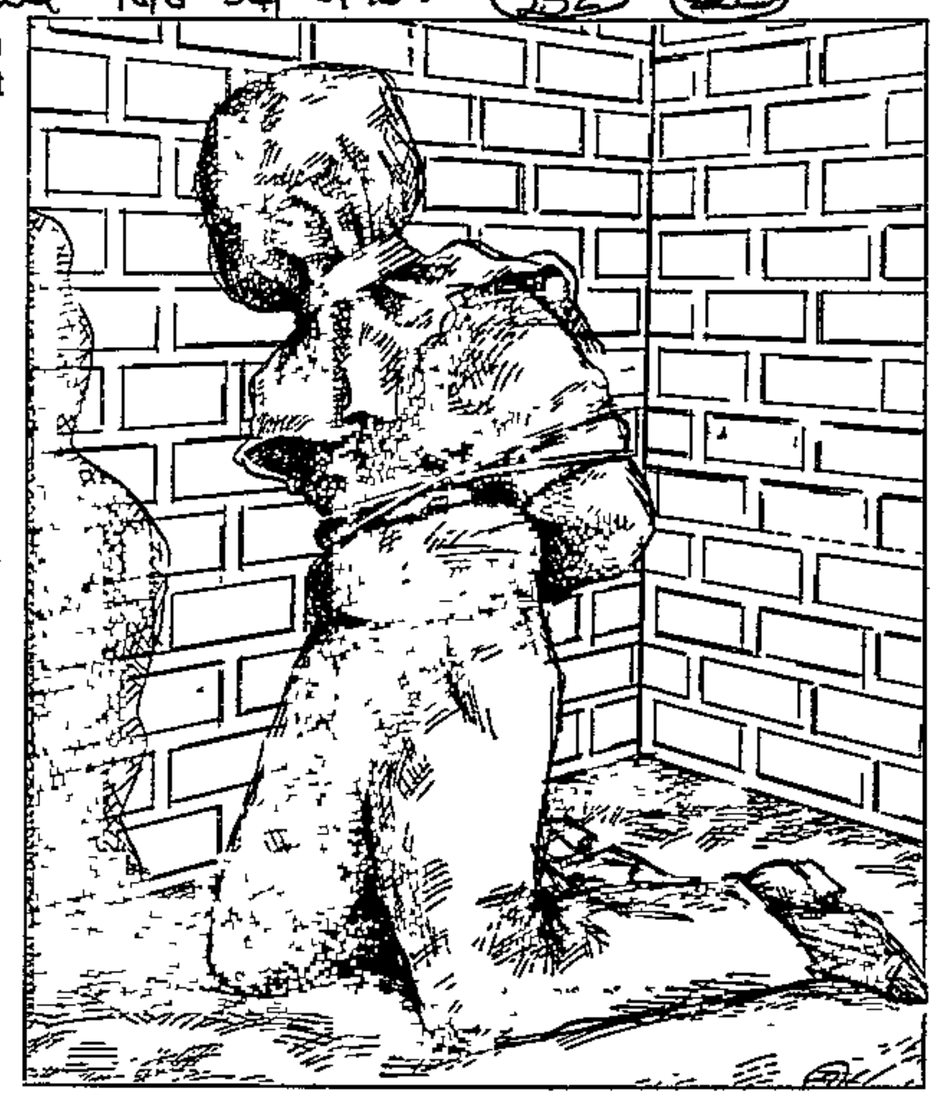
Independent MP for Overvaal, Koos van der Merwe, summed up the feelings of many when he said not one person would be hanged without the approval of the major players in negotiations

# Protecting people's rights even behind prison bars

Review Law in W/mail 18/6-24/6/93. (252)

The deaths of two prisoners in the Cape has put the spotlight once again on the treatment of convicts — and particularly the use by officials of the controversial Section 80

By **SANDY LIEBENBERG**



N July 2 1989, Carol Anne Meyers, a 20-year-old woman serving a short period of imprisonment, died at Groote Schuur Hospital after being trussed up for 23 hours in a straitjacket on the floor at Pollsmoor Prison

During an inquest into her death, prison warders said she was confined in a straitjacket because she was depressed and had hinted at suicide

On June 10 1991 Johannes Oor (26) was found hanging in the isolation section of Upington Prison Eight days earlier he had been put into solitary for a month, following an argument with a prison warder during which Oor threw a shoe at a light bulb At the inquest the magistrate found there was a strong possibility that Oor had been unlawfully assaulted by the prison warder during the argument.

Although these two prisoners died under different circumstances, both deaths were closely linked to a misuse by prison officials of the Correctional Services Act, Section 80

This section provides that a prisoner who displays or threatens violence or who is believed to be contemplating escape, may be confined in an isolation cell and/or be placed in irons or subjected to some other "approved means of mechanical restraint"

This confinement or restraint may only last for as long as it is "urgently and absolutely necessary" to secure or restrain a prisoner; the Commissioner of Correctional Services must authorise the confinement if it lasts over a month, and the minister if it lasts longer than three months Section 80 is not a disciplinary provision Solitary confinement as a method of punishing a prisoner is dealt with elsewhere in the Act, and may be imposed only after a trial

In the Meyers case, the inquest court found her death was caused by prolonged restriction in a straitjacket that was too tight. This led to uncontrollable bleeding when she was released from the straitjacket, and then to organ failure The court also found that all those involved regarded the straitjacket as a method of punishment Captain Muller, head of the female section of the prison who ordered her confinement in a straitjacket; Dr PU Fisher, the district surgeon who certified her fit for the straitjacket, Lieutenant Oerson, the prison nurse on duty and the various wardresses involved in restricting her

The court remarked that in many senses, she was treated worse than a prisoner punished under the Act — she was for example, denied the use of toilet facilities and exercise

The court also found that Fisher and Oerson operated under a misapprehension that where their ethical and professional duties towards prisoners in their care clashed with the expectations of prison culture, slavish obedience to superior orders came first Many of the provisions of the Prison's Act, the regulations, prison standing orders and the Commissioner's internal circular relating to the safeguards to be applied in these circumstances were ignored

Ultimately the court found the negligence of the prison officials caused Meyers' death but that they could not have foreseen her death

In the Oor inquest the court did not find that his death was due to an act or omission by anyone However evidence at the inquest revealed that — as in the Meyers case — various provisions of Section 80 were misapplied or breached Oor was ordered confined to an isolation cell for a month this contravened the provisions of Section 80 which makes it clear that confinement should be only for as long as it is absolutely and urgently necessary.

The circumstances of this case also strongly suggest that the solitary confinement allowed under Section 80 was being misused for the unauthorised purpose of punishment The court also found that the prison officials involved had breached their legal duty of care towards Oor by not keeping him under proper observation to prevent him from obtaining and using the belt with which he hanged himself Prison standing orders and prison policy by contrast both clearly acknowledge that there is an increased likelihood of suicide among prisoners in solitary confinement.

The Oor and Meyers cases raise several question which demand serious answers if similar tragedies are to be avoided in the future.

What action will be taken if prison officials misuse and ignore provisions of the law and violate the basic human rights of prisoners in their care?

In the Meyers case the Cape Attorney General is still to make a decision regarding a prosecution of the responsible officials arising out of her death, but in the meantime both officers involved have been promoted "in terms of merit and efficiency principles" one to major, the other to captain.

In the Oor case, the Attorney General of the Northern Cape has declined to institute any prosecution on the grounds that such a prosecution is not warranted.

Strong action is needed as a clear signal that the rights of prisoners will be respected, and violations of such rights will not be tolerated

The cases also raise questions about general practice in South African prisons are solitary confinement and mechanical restraints being used as a convenient way of punishing prisoners under the guise of Section 80, to avoid following the disciplinary procedures laid down in the legislation?

Finally one questions why the inherently dangerous procedures — both physically and psychologically — of solitary confinement and straitjackets are needed to achieve the objectives referred to in Section 80 Surely there are more effective and humane methods to deal with prisoners who are threatening escape or violence, especially when such violence is broadly interpreted to include threats of suicide and displays of frustration by prisoners?

Ironically the very method which was supposed to save her life, caused Meyers to suffer a cruel death In the Oor case, the method used to calm and restrain him led to his death by suicide

At the very least one hopes that after these two cases the Department of Correctional Services will restrict solitary confinement and straitjacketing to an absolute minimum. In addition, prison regulations should be tightened, and compliance with these provisions by prison officials strictly monitored to ensure the safety of all prisoners subjected to these methods

There is also a challenge to all of us — we must ensure that the extreme measures which led to the deaths of Meyers and Oor will not pass the test of a Bill of Rights which respects the life and dignity of all prisoners in South Africa.

●The Department of Correctional Services comments "The department has specific instructions and regulations which control the use of mechanical restraint and isolation of prisoners in accordance with Section 80 of the Correctional Services Act. Any violation of these instructions is considered in a very serious light and the necessary steps are taken In both cases in question, inquests were held and the outcome referred to the Attorney General

●**Sandy Liebenberg is an attorney in Cape Town.**

# Assessing the role of assessors

Review/Law in W/Mail 18/6-24/6/93 (252)

By CARMEL RICKARD

AN important Appellate Division judgment coming out of a Perskor labour dispute raises serious ethical problems for many lawyers Late last year, the AD overturned a decision of Mr Justice Spoelstra on the function of assessors in the Labour Appeal Court.

The key question was whether, under the Labour Relations Act, assessors should help decide if there had been an unfair labour practice. Sitting as chairman of the Labour Appeal Court, Judge Spoelstra ruled they had no role in deciding what the AD later called "the ultimate question".

When the case came to the AD on appeal, the court found that, contrary to Judge Spoelstra, assessors are "full members of the court" for the purpose of deciding whether there has been an unfair labour practice

Although the AD judgment has been widely praised for acknowledging the important role of assessors in the Labour Appeal Court, the new recognition of their responsibility has brought with it what a number of lawyers regard as a serious dilemma They feel uneasy at the idea that they could sit today as full members of the Labour Appeal Court to decide a case in which the issues could have an impact on a matter they would contest on behalf of a client in the industrial court the following week.

After last year's BTR Sarmcol judgment, labour lawyers are well aware how easily a decision can be overturned if one side has a "reasonable perception" that a member of the court is biased. They predict it will not be long before Labour Appeal Court decisions are contested on the grounds that an assessor is not impartial; not necessarily because the assessor may be biased, but because the assessor is perceived to have a vested interest in the outcome of the case

On the other hand, labour lawyers make an invaluable contribution to the development of labour law in this country If they were to stop sitting as assessors it could severely affect the labour courts

Some lawyers say the problem raised by the Perskor judgment is "more perceived than real", and that it should make no difference to labour lawyers who sit in the Labour Appeal Court. "They must just do their job as they have always done," said one.

Others, however, are so concerned about the implications of the judgment that they are considering whether to stop sitting as assessors: they hesitate to risk the conflict of interests which may arise or expose themselves to allegations of bias or unprofessional behaviour.

The chairman of the Natal bar, Malcolm Wallis SC, takes the problem seriously and it is on the agenda for the AGM of the General Council of the Bar "The new situation presents a very clear

● Continued on PAGE 3

P.T.O

# Tukkies team comes in

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A TEAM of South African law students participated for the first time ever this year in the prestigious Phillip C Jessup International Moot Court competition held in Washington DC.

The team — Helen Fourie, Villiers Terblanche and Mashilo Bopape from the University of Pretoria — finished 44th Numerous regional preliminary rounds in which more than 250 universities from 42 countries participated, took place before the finals, starting in September last year. From these, 53 teams from 33 countries qualified for the international rounds held in Washington earlier this month Among the teams which finished well behind the Tukkies trio were Finland, the Netherlands, Sweden and Mexico

The competition, which dealt with international legal problems of civil war, decolonisation, state succession and expropriation, was won by Melbourne University, Australia.

The Pretoria team won the first Southern African Moot Court Competition in Harare last September, and registered for the Jessup competition when no other South Africans entered. In future, however, regional qualifying rounds will be organised by the recently founded South African branch of the International Law Association Review | Law

Accompanying the team was Centre for Human Rights director Johann van der Westhuizen. He said the Jessup competition could powerfully motivate local students to study public international law. At the final award ceremony the South African team was especially commended by the organisers for their "remarkable performance as newcomers" in W/Mail 18/6-24/6/93

# Judicial review needs 'clear signposts'

Review/Law in W/M and 18/6 - 24/6/93 -

(252)

In the last Review/Law attorney Peter Leon commented on judicial review. Now African National Congress constitutional committee member **ALBIE SACHS** gives his views

THE debates over how to secure judicial review in a new constitution has reached an advanced and interesting stage. It is not helped by knockabout and totally incorrect assertions that people like myself, associated with the African National Congress constitutional committee, are against judicial review

We strongly support judicial review. We would like to see it strengthened in at least three basic respects having a firm constitutional basis so that the courts' powers cannot be ousted; having a wider ambit than at present so as to deal with any violation of constitutional rights, and being based on clearly stated principles of good, open, fair and accountable government.

This last concept is probably the most creative aspect of the Breakwater Declaration on judicial review. This was adopted recently in Cape Town after a broadly based conference which we helped to promote. The idea is not simply to have mechanisms to correct abuses after they have happened but to build into the public administration explicit principles and procedures to guarantee maximum transparency and rationality. One example is to require officials to give reasons for their decisions

Government must not only be efficient, it must be open, honest, impartial, non-corrupt and fair.

Agreement must still be reached on two issues First, how detailed the new constitution should be in relation to judicial review. There are three positions

The extreme laconics wish to declare simply that there shall be judicial review of administrative acts, and then leave it to the judges to work out for themselves how they should function. The total sceptics, on the other hand, would like to set out with great precision how the judges should operate. Being the moderate that I am told that I have become, I belong to the in-between group, which I call the "clear signposts" school

Albie Sachs Photo. E ELMENDORP

We believe that without being too prescriptive, the constitution must set out clear principles to guide the judges. We envisage a strong constitutional package· strong judges, strong principles writ large in the constitution, strong measures to ensure that all have equal access to the courts, and a strong civil society to guarantee that people are alive to and demanding of their rights

It is crucial that we do not have hacks of any kind of persuasion on the bench It is equally important that the constitution be resonant of liberty and equality.

The second area, which perhaps only the future will decide, is the style of judicial reasoning under the new constitution and the role of judicial precedent. Here too three possibilities exist.

First, the judges could continue to rely heavily on existing South African and English precedents "as modified by the constitution".

Secondly, they could shop around for precedents in countries such as the United States, Canada, India, Germany and Namibia, and then adopt the ones they like.

Thirdly, they could follow the example rather than the precedents of these countries, that is, they could create their own jurisprudence in the light of the history, language, character and objectives of our own constitution

My preference is for the last The constitution will be a compact intended to enable South Africans to work together on a basis of equality and mutual respect so as to overcome the wounds and divisions of the past and create a new prosperity for the benefit of all.

The most brilliant court South Africa has ever produced was set up precisely to heal wounds, reconcile former combatants, promote freedom, and provide the basis for economic reconstruction.

It was, of course, the court headed by Innes in the Transvaal after the Anglo-Boer War.

Despite being tied into a system of white (and male) supremacy, this court established judicial review, admitted Africans to legal practice against the opposition of the Transvaal Law Society, and took the first major steps towards South Africanising the common law.

Surely our generation is capable of doing the same, but on a broader basis We have the creativity, comparative learning and personal and professional life experience to do so.

Hopefully we will have the necessary vision and self-confidence as well to produce a brilliant new South African jurisprudence imbued with justice, clarity and common sense.

# Risky business of police liability

Review/law in W/Mail 18/6 - 24/6/93. (252)

By KATE OWEN

WINNING a claim against the state for assault by off-duty police officers has become more difficult following a recent Appellate Division judgment.

This judgment curtails the liability found by the court six years ago in the landmark Rabie case, and will make it far harder for victims to win claims against the state for the actions of off-duty policemen.

In theory it should not be difficult to sue an individual policeman in his private capacity for wrongs he has committed. However, it is often not possible to go to court because the identity of the individual policeman cannot be established. Even if the culprit can be identified, victims usually face another problem: it is unlikely that a policeman could meet a large damages award.

Lawyers acting for victims of police assault in cases like this depend on the doctrine of vicarious liability. This doctrine recognises that an employer who uses someone to do his work should not be allowed to shelter behind an unknown or poor employee who causes injury or damages while on his employer's business. This protection is particularly needed where the state is the employer and citizens are injured by its employees. The doctrine has therefore been well developed in actions against the minister of law and order for wrongdoings by policemen.

The classic test for vicarious liability is whether the employee, in performing the wrongful act, was engaged in the affairs or business of the employer. This issue was canvassed in the 1986 Rabie case which concerned an off-duty sergeant who maliciously assaulted somebody for personal reasons, and then put himself on duty.

This proved a high watermark for victims claiming compensation from the state. In finding the state liable, the AD crystallised the doctrine of "creation of risk", saying that a master who does his work by the hand of an employee creates a risk of harm to others if the employee should prove negligent, inefficient or untrustworthy. In the Rabie case, the state created a risk in employing the sergeant as a policeman, and the sergeant's employment was conducive to the wrongs he committed.

Six years later, however, in the Ngobo case, the AD changed its mind. The judges questioned the "creation of risk" doctrine as applied in Rabie. They said that in so far as the Rabie decision had depended on this doctrine, it was wrongly decided. The AD reaffirmed the classic "vicarious liability" test, and found that since the two policemen in the Ngobo case were in no sense engaged in the affairs of the minister at the time of the assault, the state was not liable for their conduct.

Until the Ngobo appeal, lawyers suing the minister relied on Rabie. For example, our firm brought a claim when an off-duty policeman, who was helping a taxi-driver in his spare time, became involved in an argument over the fare with a group of people. He shot two dead and severely wounded four others.

This case was settled favourably; the minister made a capital payment to our clients although without admission of liability. In another case, we issued summons against the minister after an off-duty policeman shot two people in the bar of a mine compound. Following the Ngobo decision, however, such claims are less likely to succeed, thus leaving the public far more vulnerable to assault without compensation.

The retreat to pure legal principles may be correct from a juridical point of view. However, because of the unequal relationship between a policeman culprit and his victim, the public needs more protection. In the wake of Ngobo, parliament should urgently extend the law on police liability as a matter of public policy.

●Owen is an attorney in the human rights department of Deneys Reitz.

See PAGES 2 & 3

# Contributing to the future

LRC Review in W/mail 18/6 – 24/6/93 (252)

IT is likely that a much more comprehensive legal aid network will come into existence, which will have a significant impact on the work the LRC is presently doing, said national director Arthur Chaskalson SC at the 1993 annual meeting of the LRC.

Once a new government comes to power, the image and purpose of government institutions like the Legal Aid Board will change

## Public defenders

The Legal Aid Board's new director has shifted the focus of legal aid towards meeting the greatest need — the provision of defence in criminal trials

In approximately 85 percent of the cases funded by the board, the clients are black

The board is beginning to explore the possibility of shifting from a judicare system to one which is structured around employed lawyers

The pilot project for a public defender office is an illustration of this thinking The project is likely to become a permanent structure and to be expanded beyond Johannesburg into other parts of the country

## Community service

Legislation is likely to be passed to make it possible for law graduates to do "community service" instead of articles of clerkship

What is contemplated is that a graduate who works for a year at a recognised community service institution, such as the public defender office, will be able to gain admission to the profession after completing a four months' practical course and passing a professional exam

This will not only encourage community service, but will also remove a major obstacle that presently exists to gaining access to the profession — namely, finding a place as an articled clerk

## Advice offices

Advice ofices, too, are likely to be incorporated into the legal aid system in a formal way and not left as they now are, fending for themselves

Ultimately, what this country needs is a legal aid network consisting of judicare for those cases which the private profession can handle better than employed lawyers, a network of employed lawyers and advice offices working together to provide legal services in civil and constitutional cases, and a public defender system to address the needs of the unrepresented accused

> The Legal Resources Centre has a huge reservoir of knowledge, skills and human resources which can make a significant contribution to the future of South Africa. What is its role in helping to bring about a new society now, and in the longer term?

This system can be given substance by requiring law graduates to serve internships at one of these institutions for a period of at least a year before being admitted to practice, in the same way as doctors

This will not only extend the scope of the legal aid services and bring them within the financial capacity of the state, but will also have an impact upon young law graduates, who will be brought into contact with the problems of the majority of the people, not just those who can afford lawyers, which is largely the case under the present system of articles

## The LRC in the future

What would such a change mean for the LRC?

A proper legal aid service would be able to address most of the labour litigation, damages and welfare claims and, ultimately, the advice office network the LRC handles at present

That would free resources for land, housing and development work, legal services to rural communities and human rights issues, in which the specialist capacity of the LRC would be most needed and most effective

The new constitution and legislation likely to be passed by a democratic government would increase the LRC's capacity to deal with these, and this is where the future lies

## In the short term

There are a number of ways in which a contribution may be made during the transition period, without involving the LRC in direct political action

## Levelling the playing fields

Many laws and practices have an impact here The senior government law adviser has asked if the LRC would bring to his attention laws it thinks should be repealed

The LRC could catalogue such laws and make them public

Allied to this is consideration of what laws may have to be enacted to prevent practices which are likely to have an adverse impact on the levelling of the playing fields

## Free and fair elections

The Independent Election Commission and other independent agencies will be looking for people to assist in promoting conditions in which free and fair elections can take place They are likely to approach institutions like the LRC for help in this process

A vital task to be undertaken will be the education of voters. Another is the question of participating in structures set up to monitor events and promote peace during the election campaign

## Constitutional debate

Because of the LRC's experience in this field, it has knowledge and skills relevant to the debate around the new constitution and new legislation which will be required to address the legacy of apartheid.

While it would be inappropriate for there to be an LRC view on any particular issue, its members should be encouraged to make their knowledge available through publishing, seminars and the consideration of new legislation that could help clients with particular problems

# Judge Goldstone comments on the role of the LRC

LRC Review in W/mail 18/6 – 24/6/93 (252)

**SPEAKING at a meeting in Cape Town, Judge R Goldstone said it had been a great comfort to him on the Bench, during the dark years of apartheid, to know that there was an organisation like the Legal Resources Centre which was using the courts to establish rights.**

**While the importance of the LRC to its many hundreds of thousands of its clients was obvious, the role the LRC had played in maintaining the integrity of the South African legal system, and in particular of its judicial system, was equally valuable. The advent of the LRC helped to change the perception that the courts were part of the system enforcing apartheid laws.**

Judge Goldstone

**"It is fundamentally important for the reputation and integrity of the South African legal system that courts were used, and in many cases successfully used, to establish rights for people who had never conceived themselves even of having rights, let alone enforcing them" he said.**

**The judge recalled the Bar Council's change to its rules in 1978, to allow advocates and attorneys to practise together, which made the founding of an organisation such as the LRC possible.**

**"It was quite revolutionary," he said. "It was only Arthur Chaskalson's brilliant advocacy which won the day. It was a very heated debate, as I recall, and the decision of the council was not carried by a very great majority."**

**Judge Goldstone said that the subsequent court successes of the LRC were based on the careful choice and thorough preparation of cases "It was the reason, I believe, why on the South African Bench the standing and integrity of the LRC is very widely recognised, not only among members of the profession who were not necessarily particularly supportive of what they were doing, but people who recognised their professional integrity and competence."**

**As chairman of the Goldstone Commission, the judge praised the excellent representations the LRC had made on behalf of local communities to the committees investigating the violence in Natal.**

**He said that the LRC had a tremendous role to play in helping to create a human rights culture. "The border of human rights will have to be extended into areas that may be unique." In this respect, the LRC's contacts with people at the grassroots was important. It had the experience and had built up the trust, he said**

# National director retires

LRC Review in W/mail 18/6 – 24/6/93 (252)

Arthur Chaskalson

**AS has been publicly announced, advocate Arthur Chaskalson SC is to retire as national director of the Legal Resources Centre**

**Announcing this, Chaskalson said: "It has been a great privilege for me to have been associated with the LRC since its establishment, and the past 15 years have been the most satisfying of my professional life**

**"Although I would like to continue my association with the LRC for as long as it wishes me to do so, I have no doubt that a younger person should take over the leadership and assume responsibility for the implementation of the changes which have to be made as we move into a new social, economic and political environment."**

**During his opening address at the LRC's annual general meeting, Judge Ismail Mahomed, a founder trustee of the LRC, said: "Arthur Chaskalson is a generous and a very remarkable man who gave up a very lucrative commercial practice at the Bar to pioneer and to sustain for some 14 years, in an environment unsympathetic and even hostile to that ethos, a nascent but potentially very exciting human rights culture, and he did that with remarkable creativity, persistence and dedication**

**"He is able to maximise his input into this very crucial area through a rare combination of an incisive intellect and a kindly and caring soul**

**"It will be indeed very traumatic for the LRC to face, as it must soon, the sadness of Arthur's wish to leave as a national director**

**"It is virtually an impossible act for anybody to follow."**

# A case for class action

LRC Review in W/Mail 18/6-24/6/93.

ON behalf of a Mamelodi client, the LRC won an electricity charges case in the Appellate Division which has implications for all township residents.

But, because there is no provision for class action in South African law, this remains an individual victory. Every person in a similar situation would have to take action for his or her rights — which is not possible in practice.

The LRC, acting for Mr Setshedi, challenged the Mamelodi Council's practice of charging interest and also attorney and client costs on electricity account arrears. Judgment initially went against Setshedi, but his case was successful on appeal.

The next electricity account he received from the council, however, was for approximately R8 000.

When it was examined, it was found that he only owed R20 in arrears, due to a tariff increase he did not know about. The rest was for legal costs from his case in the Transvaal Provincial Division.

Fortunately, the AD had set aside that judgment, together with the costs order. Setshedi was lucky to have access to lawyers who could go through the account, understand it, and advise the council that he would not pay.

In the light of the AD judgment, theoretically all interest on arrears collected between January 1987 and 1990 should now be repaid to residents.

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The LRC sees many similar cases. This was just one example of widespread administration problems in black townships. The head of one household of four keeps paying monthly accounts of about R1 000 to avoid being cut off, after all attempts to resolve the matter have failed.

Many people are also faced with attorney and client charges on electricity bills, often without a judgment authorising the court order.

People often don't know what charges are for or how they arose. And their payments are often not reflected correctly on the accounts.

Consumer boycotts leading to negotiations which eventually "write off" arrears are seldom understood against this background — that arrears are often not even owed.

Residents have little incentive to pay when services are not efficiently provided or where accounts bear no relation to what is consumed.

There is also little pressure on the councils to improve their administration if residents find it impossible to calculate what they really owe, and they cannot take class action but must fight each matter individually.

With the goalposts of a soccer field as a backdrop, an architect brought in by the LRC explains different housing options to the people of Swanieville

# What is the lawyer's new development role?

LRC Review in W/Mail 18/6 - 24/6/93 (252)

CONFLICT and litigation usually get lawyers involved with developing communities. Threatened with removal or eviction, they call on the Legal Resources Centre to represent them in resisting and establishing their rights Here, lawyers are within their traditional roles.

But the post-removal phase, after successful resistance, is one in which lawyers are venturing into comparatively new ground. LRC lawyers from around the country recently put their heads together to compare experiences and share ideas

New thoughts about the role of the lawyer in development are now taking concrete form from what is being done in the field Looking at the host of issues arising out of practice, it is clear that there is a need for a developmental lawyers' course in South Africa. Disadvantaged communities about to embark on upgrading generally need help with securing tenure, acquiring more land, housing and services, education and health care, job creation and business development

What is the lawyer's role in helping negotiate these steps to successful development? Is it to act as catalyst? Where does one draw the line as a lawyer? Lawyers can be drawn in too deeply, especially where there aren't enough community development workers. To what extent is there a limit to the role of lawyers once the development process is under way? What role does the lawyer play in relation to other players — the state, the private sector, non-governmental organisations and clients? At what stages in the process does the lawyer have a greater or lesser role? These are some of the questions

In the development phase lawyers, accustomed to taking charge of a situation, must change their ideas about how they practise They must guard against being too prescriptive They have to let the community make the decisions Clients must also change their expectations

There is a need for upfront definition here of the rules under which an attorney will operate, preferably by written agreement The LRC is clear that development should take place in a "human rights" style It should help people develop as people, and recognise and build their capacity to control and guide the process themselves.

The issue of division within communities also needs to be negotiated upfront. Experience has shown that democratic procedures within the client community need to be agreed clearly before the LRC becomes involved, and must be evaluated on an ongoing basis

Civic or residents' associations must represent the majority, regularly report back to the community, and hold elections Lawyers should not accept instructions which involve fundamental choices from these bodies without satisfying themselves at mass community meetings that there is support from the community as a whole

One role lawyers play in development is facilitation and co-ordination They are usually called on to help communities approach the appropriate service-providing authorities, and to help negotiate and lobby LRC lawyers go to planning meetings and meetings with public officials. Their primary duty here is to advise clients in the negotiating process They also need to keep alert to decisions being made Administrative decisions which unlawfully or adversely affect the future development of client communities might need judicial challenge or review

Lawyers also provide access to resources such as finance and expertise They may introduce their client communities to professionals in engineering, town planning, agriculture, finance, medicine and education This multi-disciplinary input is necessary to advise communities on the correct developmental choices However, where technical options are involved, lawyers should not be involved in advising clients about the options or helping in and monitoring their implementation Here they should insist on a direct relationship between such professionals and their clients But they should monitor the implementation of agreements reached

In general, lawyers play a vital role in negotiations leading to agreements with other bodies — for example, for the purchase of land or the supply of electricity and water — and they have to vet the final product to make sure that agreements are in accordance with clients' instructions and needs They have a duty to give clients clear advice on the implications of any new legal relationships they will be taking on. They also advise on the establishment of community institutions such as development trusts.

Although it might be desirable, in the interests of a coherent negotiating strategy, that lawyers should co-ordinate other professionals, one thorny question is how far lawyers should go along this route as organisers, rather than as lawyers. There is a danger of doing too much.

Lawyers are also often called in to resolve conflict, for example, between civic organisations and authorities. This tends to entrench their role as manager of conflict, which may mean mediating rather than representing clients.

Another question is: should the LRC employ community workers or outside professionals, as an alternative to working with other organisations whose developmental priorities might not match those of the LRC?

Much still needs to be done and learned The tension between the evolutionary vehicles being structured by community-based organisations and the duties and powers of future democratic local governments needs examination

Another question involves how community assets and resources brought into being during the development process should be owned, and remain in accountable and democratic hands LRC staff also need training in matters such as the setting up of development trusts and related commercial and taxation issues.

# Lessons from the KTC case

Review/law in W/mail 18/6-24/6/93.

Legal consultant **RICHARD ROSENTHAL,** reflects on what can be learnt from the KTC squatters' action against the state

THERE are several lessons to be learnt from the cases where more than 3 000 people from KTC squatter camp sued the state for damages inflicted by the police and *"witdoeke"* (see above) (252)

First, there is an urgent need for law reform so large numbers of people can bring class actions The whole communities can obtain redress for wrongs they have experienced without the enormous obstacles to legal action which now exist

Under existing law in this country no such remedy exists For example, in the KTC case, each of the 3 200 individuals had to instruct their own lawyer, issue a separate summons and prove all the facts in each claim In cases like this where a large number of people are involved, it entails enormous duplication of cost and effort. The unlimited resources of the state and the strict (and often unfair) time limits imposed on anyone wanting to sue the state, mean that legal action for an injustice is often practically impossible

Secondly, we learnt how important technology and computers can be in cases like this

In the KTC story, computers were used at all stages of the operation — to collate particulars of the individuals making claims, then to produce thousands of summonses and other court papers, and then to collate data and to cross-reference facts None of this would have been possible with old-fashioned typewriters

The KTC case also showed the importance of liaison betwen those directly involved in providing legal services and other members of the legal profession willing to help In all, some 27 private legal firms helped the Legal Resources Centre issue summonses and handle individual court cases.

In the settlement phase, we learnt the important role that members of the financial community can play given the current level of crime, any attempt to centralise cash payments at a given time and place would have invited theft and intimidation The KTC trustees never handled cash payments Successful claimants were given individual cheques which could be cashed, with proper ID, at any branch of Nedbank, and others were given savings passbooks by the Perm which they could cash or keep No money was directly handled outside of the banking system It worked so well that there was only one — unsuccessful — attempt at cheque fraud

A further lesson was the need to establish excellent communication with the community whose members are making the claims Legal action is incomprehensible and time-consuming to ordinary people

Great efforts were made by the Legal Resources Centre (during litigation) and later by the trustees (during the settlement process), to set up a fully representative liaison committee which met regularly to receive information, give advice and obtain client authority

Finally, the KTC story shows what a difference the services of high quality professionals can make to poor communities Too often, such communities have been prejudiced by poor services Particularly when the circumstances are momentous, when the defendants are agents of the state, when the victims are poor and often illiterate, it is essential that the professional team be made up of people with skill and commitment.

The team in this case — the advocates, attorneys, trustees, community liaison team and everyone involved on behalf of the KTC community — showed courage, skill and commitment.

In 1986 it was no mean thing to bring formal allegations in court accusing the police and defence force of complicity in criminal conduct involving the deliberate destruction of thousands of homes.

Ultimately the settlement, which involved the payment by the state of R2-million, was the vindication of the truth of these allegations — despite formal disavowals of culpability — and of the success and achievement of this unique court proceeding.

As the chairman of the trust, Peter Bieber, said "We hope the trust played some small part in making reparation for past wrongs and in helping achieve a more caring society, built on values including security of tenure, protection from abuse of power by the authorities, access to legal remedies through the courts, and a sense of fairness and compassion towards the less fortunate members of society struggling to establish a decent life for themselves and their families "

**Community stand** **Had the KTC squatters been able to bring a class action, much time and effort would have been saved**

TIME TO MOVE ON CLASS ACTION ...

# Taking on the state — and winning

Review/Law W/Mail 18/6-24/6/93

Weekly Mail Reporter

IT BEGAN in May and June 1988 when thousands of squatter homes in the informal settlements around Cape Town were completely destroyed.

Residents claimed police were responsible, leading crowds of *"witdoeke"* into the area, helping them attack and burn houses.

The massive destruction of homes led to one of the largest claims ever made against the state by a community, with about 3 300 former residents bringing claims for their losses.

Eventually the dispute was settled when a trust was set up, with the state putting in R2-million and five major donors between them raising over R500 000.

This money was used to help compensate the community whose homes had been burnt down.

The trustees ensured that the money was used correctly. Almost R2-million was paid out in compensation to those who suffered loss and injury in the attacks and the balance was spent on community development programmes including a mobile clinic, financial assistance to community schools and the construction of 10 prefab community centres for the benefit of the former residents.

The trust has now been wound up, and the last instalments for the community development programmes are being paid out.

A total of R1 960 657 has been distributed among 2 947 individuals who suffered damages during the attacks. The balance of more then R586 000 was spent on a number of community development projects.

The size of the project was almost unimaginable.

In addition to the Legal Resources Centre, which co-ordinated the case, it involved 27 different firms of attorneys; it showed new possibilities for legal technology, with special computer programmes being developed to cope with the intricate demands of the court action and subsequent settlement process.

It involved close co-ordination with the affected communities, and developing an innovative payment procedure to make sure funds reached the beneficiaries safely.

# Putting some punch

Review/Law W/Mail 18/6-24/6/93. (252)

South Africa missed an opportunity to lead the world on the issue of legal standing in public interest cases. Parliament must now step in with new laws on class action, reports **CARMEL RICKARD**

ABOUT 20 years ago, the South African courts took a decision which put this country at the forefront of world legal thinking on the question of public interest or class action and *locus standi* (the legal standing to bring a court application).

This was the 1975 case of Wood v Ondangwa Tribal Authority In that case, the courts allowed church leaders in then South West Africa to bring an action on behalf of many rural people, preventing the tribal authorities from unlawfully arresting the people for belonging to certain political organisations

Since that case however, the courts have interpreted *locus standi* very narrowly and the chance to the lead the world in this important area of law has been lost

Senior law lecturer at Wits University, Cheryl Loots, says the only way forward now, is for parliament to step in, change the law on standing, and explicitly authorise class action and public interest action

Loots is a member of the South African Law Commission's newly formed team which is to investigate the whole issue of standing and class actions Based on the findings of their research, the Law Commission will then make recommendations to parliament about a new law.

Referring to the Ondangwa case, heard by the Appellate Division on appeal from what was then South West Africa, Loots says it was a great pity the courts did not follow that precedent Instead, they have ruled that Ondangwa dealt with life and liberty. When issues of less gravity are at stake, the courts will not relax the rule on standing

"With the Ondangwa case as precedent, the courts could have, since 1975, developed public interest actions as has been allowed in India We would have had a significant start on that country, because India only began allowing such actions in the 1980s In India the courts were committed to the idea and immediately began building up a body of law on the subject Our

# Legal reading for the poor people

Review Law in W/Mail

**HANDBOOK OF PUBLIC INTEREST LAW (2nd edition)** *by Legal Resources Centre* (R90 or R50)

18/6 – 24/6/93

LAWS affecting poor people in South Africa have not been the subject of much legal literature While most other branches of the law feed a booming legal publishing industry, public interest lawyers and paralegal workers have over the years had to assemble their own literature from obscure statutes and case law.

The activity of these organisations, and particularly of the Legal Resources Centre (LRC), has led to the emergence of public interest law as a major branch of the law in this country.

The LRC had for years distributed a cumbersome loose-leaf manual to its branches until Durban director Richard Lyster decided in 1990 to edit and publish a comprehensive user-friendly volume for everyone in the broadly-defined field of public interest law.

After receiving a thumbs-down from major legal publishers, the LRC decided to go it alone and with the help of a local desktop publishing agency, published the first edition in 1991.

So successful was the book that demand soon exceeded supply A second edition was clearly necessary, and it has just become available.

"The *Handbook* has been the first attempt in South Africa to compile a textbook on the laws relating to those on the lower level of the social and economic ladder," comments Lyster.

"The second edition improves and consolidates the text and adds new material bringing the book up to date with the momentous changes in laws relating to land, security and the emergence of the National Peace Accord."

The book is available at R50 for students, advice offices, trade unions and other non-governmental organisations and at R90 for everyone else, from the LRC, 71 Ecumenical Centre, St Andrews Street, Durban, 4001. Phone (031) 301-7572.

# Bop clampdown after court victory

LRC Review in W/Mail 18-24/6/93 (252)

**The Bophuthatswana government is clamping down on the constitutional right to freedom of speech and assembly after an LRC court victory**

IN 1992 the Winterveldt Civic in Bophuthatswana, a local residents' association, held a public meeting to discuss local concerns. This was a first for them.

Until their chairman, Mr Nyamakazi — a resident alien who has been there since 1947 — was permitted to hold a meeting, non-citizens had been effectively excluded from the political process by Bophuthatswana's security legislation.

On behalf of Nyamakazi, the LRC successfully challenged legislation which invaded the fundamental right to freedom of speech and assembly guaranteed in the Bophutatswana constitution's Bill of Rights A number of the territory's public figures quoted this court victory to prove that they had a democracy and an enforceable Bill of Rights

However, in response to this successful fight for his rights by a resident, the Bophuthatswana Legislative Assembly acted in late 1992 to reverse these freedoms by amending a number of laws.

The Supreme Court Amendment Act has a new section empowering the minister of law and order, if he doubts the correctness of any decision — including a decision as to the constitutionality of any act of parliament given by the general division — to submit such decision to the Appellate Division for argument

The South African Supreme Court has a similar provision, but provides for a stated case where there are conflicting decisions. There weren't any in Nyamakazi's case but the state, whose original appeal against the judgment had been allowed to lapse, used this section to try to set aside not the final decision but the *obiter dictum* on which the decision was based.

This could force the court to consider the question of whether or not an act of parliament is constitutional, without the compelling material facts before them.

The stated case of Nyamakazi was argued in May but, in a setback for the Bophuthatswana government, was struck from the roll on a technicality This is where the matter stands at present

The right to freedom of speech and assembly remains unchallenged by a higher court at this stage, but is tenuous, especially in the light of a number of other legislative changes.

The Bophuthatswana Declaration of Rights has been amended to exclude aliens from the right to freedom of expression and assembly. Previously, the constitution did not allow for differentiation between citizens and aliens — the declaration providing that "all people shall be equal before the law"

Regulations to the Bophuthatswana Aliens and Travellers Control Act now specifically prevent aliens from delivering any speech or participating in any discussion or campaign to influence any change of system or any level of government, or to advocate the end of the homeland's "independence".

Provision was also made in the Internal Security Second Amendment Act for the promulgation of wider regulations than were ever in force in South African emergency legislation, concerning the declaration of unrest areas, summary arrest and detention. The courts are also effectively excluded from scrutinising what may be regulations made by very junior officers to whom ministerial authority may be delegated.

In addition, the Prevention and Control of Mass Action Act outlaws mass action, defined as any action whereby considerable numbers of people are mobilised to stage a demonstration, sitting etc with a view to defying any legally imposed conditions

The amended National Defence Act also authorises the defence force to suppress disorder in any specified region.

# Review/Law brings you news and views

THIS edition of our quarterly, *Review/Law*, focuses on class actions — the need for a change in our law to allow groups to institute collective actions the way they do, for example, in the United States The *Review* also provides a wealth of information, news and ideas that is useful to lawyers and those interested in what is happening in our courts and legal profession.

The *Review* is published in conjunction with The Legal Resources Centre (LRC), established 14 years ago to represent individuals and communities who would not otherwise be able to obtain legal advice or enforce their legal rights. It charges no fees.

The focus of the LRC's work is issues which affect a wide community. The spectrum of work includes human rights, land, housing, development, labour matters, current violence, consumer abuse and the abuse of power by public officials Over the years, the cases taken on by the LRC have affected the lives of millions of South Africans The LRC works with more than 100 independent community-based advice offices in both urban and rural areas.

The LRC has offices in Cape Town, Durban, Grahamstown, Johannesburg, Port Elizabeth and Pretoria It is funded by the Legal Resources Trust, which raises donations from the public

●The next *Review/Law* is being published on August 20

Contributors should contact the editor, Carmel Rickard, at (031) 202-6575

# Claim for mental anguish

LRC Review in W/Mail (252)

SOUTH African courts have accepted emotional shock as a damage, but have so far confined it to situations where the victim has been in sight of a traumatic event.

There is the view, however, that a person should be able to claim for general damages arising out of mental suffering, distress and grief caused by the death of a close relative. 18/6 - 24/6/93.

Since our courts regularly assess emotional injuries sustained in personal injury, adultery and other cases, there cannot be any rational basis for continuing to deny compensation to bereaved close relatives for their very real and acute mental anguish in wrongful and malicious death cases.

In the case of Thulani Chistopher Cele, who was shot by the Kwazulu Police, such a claim on behalf of the deceased's motherhas been made.

The original claim for damages related solely to funeral expenses, but was subsequently amended to include a sum for mental suffering and grief, depression, emotional shock, injuria and contumelia.

Twenty-year-old Cele was shot twice in the back with an R1 rifle by members of the KZP.

Although he was clearly severely wounded, the policemen intentionally delayed taking him to hospital, a mere 10-minute drive away, for almost two hours.

Evidence from police statements and presented in court consisted of a crudely spun web of inconsistencies, half-truths and contradicitons.

The inquest magistrate concluded that he had no alternative but to recommend that murder charges be brought against the four policemen involved.

# A quick cure for crash-and-bash rows

Review/Law in W/Mail 18/6-24/6/93. (252)

Settling insurance claims out of court saves time and money for all parties involved. **LINDA MACUN** reports on alternative dispute resolution

THE idea of applying alternative dispute resolution methods to resolving insurance claims is sometimes dismissed by lawyers as "faddish". But the idea of settling such disputes outside of court, with the help of a third party, goes back a long way.

For example, 200 years ago the Insurance Company of America, a principal subsidiary of the prestigious Cigna Corporation, included a clause in its insurance policies that in the event of a dispute, if the parties could not settle the matter themselves, they would use a mediator.

With rapidly rising claims and premiums it is important for the local insurance industry, its legal advisors and clients to examine why countries like the United States are reviving private dispute resolution techniques originally established so long ago.

US insurers say they like alternative dispute resolution (ADR) because it is so much cheaper and quicker than litigation. It is estimated that litigants in personal injury and property damage cases pay 55c in every dollar awarded in compensation, for legal fees and the administration of insurance claims.

Comparative figures are not available for this country However, local insurers and their clients should look critically at what the present system is costing them in last-minute settlements and in cases that go to court.

Lawyers concede that many cases are settled on the steps of the court or during court recess. Even though such settlements will save court costs, it is still an expensive exercise, because fees for preparation and for counsel have been incurred and must be paid

Lawyers in this country, as in the US, complain about the long delays in reaching court. For insurers it must make sense to use ADR because it resolves disputes early and cuts out many obvious and hidden costs.

In the current recession, long-term relationships should be preserved where possible. By contrast with the highly charged and adversarial atmosphere of the courtroom, ADR provides parties with an opportunity to settle their disputes with less acrimony. In addition, the privacy of the ADR process allows parties to avoid the publicity of the courtroom

ADR will be less costly than litigation in cases where expert opinion is required, for example, in engineering, construction, personal injury and professional negligence cases. Disputes over the amount of damages and cases in which accounting evidence of loss of profits is relevant would also be appropriate for ADR Insurers may also consider ADR for multi-party disputes in which there are conflicting allegations as to liability.

It is possible to mediate small claims. In most cases these claims are too expensive to litigate and are often abandoned or summarily settled Mediation would provide an inexpensive alternative to litigation, allowing parties in small claims to participate in resolving the dispute. A short-term insurance company recently asked for a demonstration of ADR at work — and saw a mediator from the Alternative Dispute Resolution Association of South Africa (Adrasa) settle a small crash-and-bash matter in an hour instead of a day or more in court.

Most insurance companies in this country are slow in adopting ADR methods. Perhaps this is not surprising: large sums of money may be at stake, and ADR is suspected of being a passing fad However, it has become firmly established in England, Australia and the US Among the founders of the Centre for Dispute Resolution in London are major insurance companies Since the centre was established in 1990, its success rate in full mediation is 95 percent, and it has dealt with disputes worth £850-million.

At a conference in Australia last year, an insurance expert described a dispute following an explosion in a club. The dispute involved a plaintiff with a claim of $1,5-million and seven defendants Had the case gone to court the legal costs would have been another $1,5-million By skilful use of ADR however the case was settled, out of court, within three days

With success stories like this which underline the time and money they can save, more and more local insurers are bound to adopt ADR to resolve a wide range of disputes

**●Linda Macun is executive director of the Alternative Dispute Resolution Association of South Africa.**

# SADF allegations turn spotlight on to police

W/M Mail 18/6 - 24/6/93 (252)

*Allegations of police involvement not only in the Goniwe murders but also in the subsequent deaths of their own colleagues had the SADF and SAP at each others' throats during the Goniwe inquest this week.*

**LOUISE FLANAGAN** *reports*

WILL the South African Defence Force sacrifice the police to the Goniwe inquest in a bid to keep further details of military involvement in covert operations from emerging?

That's the question being asked this week at the Port Elizabeth inquest into the June 27 1985 murders of Matthew Goniwe, Fort Calata, Sparrow Mkhonto and Sicelo Mhlauli.

It follows a fascinating week of SADF allegations of police involvement not just in the Goniwe murders but in murders of their own colleagues years later; of courtroom fights between SADF and police counsel and apparent attempts to keep former SADF colonel Lourens du Plessis out of the witness box at almost any cost.

The effect was not only to move the spotlight from the military to the police, but also from those allegedly involved in ordering the murders to those who may have been involved in executing them.

The inquest had adjourned last Monday at the unexpected request of South African Police counsel Doep de Bruyn, who hinted at possible disclosures

But when the inquest resumed, SADF counsel Anton Mostert SC got in first with his own revelations.

"You are trying to get the spotlight away from the army, in particular from (Military Intelligence chief) General (Joffel) van der Westhuizen," De Bruyn complained to Mostert

Van der Westhuizen, expected to give evidence later, sent the controversial military signal described by his former colleague Du Plessis as a "death order".

Mostert had accused police of involvement in both the Goniwe murders and the December 1989 murders of three Port Elizabeth policemen and an informer in an attempt at a cover-up.

"The police, and in particular the security police, should be investigated and examined to determine any complicity in the murder of Goniwe and others," he told the court.

Sergeant Amos Themba Faku, Constable Desmond Daliwonga Mapipa, Warrant Officer G Mgoduka and alleged Askari Charles Jack died when an SPM-2 limpet mine exploded under their vehicle, while travelling on a lonely road outside Port Elizabeth at midnight on December 14 1989.

A month later the ANC claimed responsibility — a claim now denied.

Mostert said there were too many coincidences in the incident and pointed to explosives expert Major Gideon Nieuwoudt, the first on the scene after the explosion, as the first policeman who should be called to testify.

There was some surprise in court when Nieuwoudt was identified as one of the policemen who have been attending the inquest quietly throughout.

Nieuwoudt has yet to take the stand, De Bruyn said he had received death threats after the accusations.

Mostert said Faku and Mapipa were members of the Port Elizabeth security police at the time of Goniwe's murder. "If there was police complicity in the Goniwe murder, those two victims may have had knowledge of it or been involved"

He said Mgoduka's loyalty was being questioned and Jack was trying to return to the ANC.

"The bomb murders take place significantly in that period where police were beginning to turn on the police and go public with statements about police complicity in murders," said Mostert, referring to the disclosures by former policemen Captain Dirk Coetzee and Almond Nofomela in 1989.

A brief look through newspaper reports of the time shows the explosion was described as "the first of its kind in the eastern Cape" and show that police did not say "how they were informed about the explosion".

Other newspaper reports indicate the first Goniwe inquest opened briefly in June 1989 and was postponed to February 21 1990 — three months after the blast murders.

Exactly one week later, magistrate E de Beer found the Goniwe deaths were caused by "a person or group of persons unknown".

A January 1990 report indicated that Port Elizabeth doctor Fumbatha Mxenge, brother of slain activist Griffiths Mxenge, received death threats that month when he tried to reopen investigations into his brother's murder on the basis of Coetzee and Nofomela's allegations that the Vlakplaas police hit squad had carried out the murder.

The inquest moved on to call Colonel Eric Winter, the policeman who moved from the controversial and now disbanded police Koevoet unit to head the Cradock security police a few months before Goniwe's murder.

Winter described how his men had bugged Goniwe's telephone, and read from the Cradock security police book the transcribed calls Goniwe made on the morning of his murder arranging his trip to Port Elizabeth activist Derrick Swartz, the last man to see him alive

● A Port Elizabeth policeman who interrogated Steve Biko just before his death in detention, as well as former Koevoet members, may now be called to testify in the Goniwe inquest.

This week South African Defence Force lawyers asked for Colonel Harold Snyman, currently the police spokesman for Uitenhage, to be called to give evidence in the inquest into the June 1985 murders of Matthew Goniwe and others. Snyman was the Port Elizabeth security police chief in 1985 — Ecna

# Inquiry told of ANC cadres' conduct code

Star 18/6/93

The "humanism" of late ANC president Oliver Tambo led to the organisation signing the Geneva Convention on prisoners of war, ANC constitutional expert Professor Kader Asmal said yesterday (252)

He told the Motsuenyane Commission of Inquiry in Johannesburg that the ANC was the only liberation movement with a code of conduct for its cadres.

The commission is inquiring into alleged abuses of human rights in ANC camps in exile.

● Evidence before the commission concludes today. It was expected that Jacob Zuma, the ANC's deputy secretary, would give evidence on people who went missing during the organisation's time in exile

— Staff Reporter

# ANC, Azapo say police had to be forced to investigate Kombi case

(252)

By MARTIN NTSOELENGOE and DESMOND BLOW

THERE is a growing demand that an independent inquiry be held into the police investigation of the bizarre deaths of five black men who plunged over a cliff in a vehicle shortly after they had their lives insured by two white insurance agents

After a lengthy trial, the two agents, Kobus Kruger and Lucas Loubser, were acquitted of fraud and murder by Judge TT Spoelstra in the Pretoria Supreme Court this week.

The judge and two assessors found the five men had died after the Kombi in which they had been traveling accidentally plunged over a cliff

There are strong suspicions that the police did not thoroughly investigate the case – and that the case presented by the state was so weak the judge had no alternative but to find the two accused not guilty

Lawyers for Human Rights director Brian Currin told City Press his organisation would study the judge's findings before deciding whether to demand an inquiry into the police investigations

Jackson Mthembu, the ANC publicity chief for the eastern Transvaal who led the ANC's investigation, said the ANC would demand an inquiry

## Doomed

"The police did not investigate any of the accused's alibis to see whether they were valid or not," he said. "They did not inquire about the supposed clothing business and there was no proof that such a business ever existed "

He added that the bank account belonging to the accused had also not been checked to see whether there was enough money to meet the cheques issued to the doomed men

Mthembu also said a black policeman who had seen the Kombi parked above the cliff shortly before the tragedy, had not been called as a witness It is believed his evidence would have contradicted that of the accused

"The police took ages to do forensic investigations at the scene of the tragedy and by the time they did so scores of people had wandered over the scene

"There were also a number of irregularities in the manner in which the police conducted the investigation One of the accused was accompanied by a policewoman when a statement was taken from one of the survivors as he lay in hospital The other was that during the trial, W/O Christiaan Grobler told the court he had disposed of the statements of two key witnesses on the instructions of a senior

In a media statement issued by Azapo and the ANC this week, both organisations expressed dissatisfaction at the verdict

ANC legal spokesman Matthew Phosa said. "The finding is outrageous and induces a sense of shock, police had to be pressured by the ANC to investigate the case

Azapo spokesman Dr Gomolemo Mokae said that without casting aspersions on the integrity of the judge, "Azapo finds his judgment extremely mystifying"

"It does not gel in our minds that these two gentlemen should go scot-free," Mokae said, adding that in an unusual set of circumstances they had insured the lives of their new employees and made themselves beneficiaries Soon after the men died under extremely bizarre circumstances

"The learned judge should find the two survivors and state witnesses not to be 'credible' witnesses, but their evidence suggested that there was something fishy about the horrible deaths of their colleagues," he added

In conclusion Azapo said "The South African judiciary is going to find it very hard to sell this judgment to the public as evidence that all are equal before the law irrespective of race, colour, creed or social standing "

The five who died were Galekekile Gavu, John Ngobeni, Arie "Seun" Mahlangu, Aaron "Vusi" Mlombo and an unknown man

Ramahladi Matsemela was seriously injured and Lazarus Mnandi and Vimbi Skhosana were slightly injured

The two former agents met the eight men at the Department of Manpower offices in Witbank in November 1991

They offered them employment as marketing agents to sell clothes in the Pietersburg area

One of the men gave the eight prospective agents a lecture on how to sell clothes and they were required to sign application forms for life insurance the following day

Although some off the state witnesses told the court that the contents of the forms were never explained to them, Judge Spoelstra said there was enough evidence to conclude that the information supplied on the application forms by the accused, who were the beneficiaries of the insurance policies, had emanated from the applicants

It could also be concluded that the information was substantially correct and that the accused could, therefore, not be convicted of fraud, he said

City Press 1 Aug 1993

# Third force allegations 'unfounded'

Star 19/6/93

JOHN PERLMAN, Chief Reporter

THE Goldstone Commission has found that allegations of a massacre, carried out by a "third force" in Natal and instigated by the SAP, were unfounded The allegations were based on the testimony of a deserter from the Mozambican army and were published in the Afrikaans weekly Vrye Weekblad in October.

(252)

Joao Cuna told Vrye Weekblad that he had been befriended by a member of the Narcotics Bureau of the SAP, and was promised money if he would go to Natal to shoot members of the ANC. Cuna's affidavit described a mission in March 1992 where he and others fired fatal shots into a house in a Natal township, then gunned down others at a nearby taxi rank, for which he was paid R4 000. These details were published. Cuna subsequently made statements to the police in which he denied taking part in any killings.

He said his trip to Natal had been to recover stolen firearms In his testimony to the Goldstone Commission, Cuna claimed he had testified to the massacre because he had been put up to it by certain people, and implicated the ANC.

## Beyond its jurisdiction

The commission found there was no evidence of a massacre in Natal that matched the description published in Vrye Weekblad, despite probes in this regard by Goldstone investigator Major Frank Dutton. "On the basis of all the evidence presented to it, the committee concludes that there is no evidence whatsoever for finding that Cuna participated in a massacre as described in the article," the report said

The committee also found there was no evidence to justify "that there is a third force instigating and perpetrating violence of the kind alleged in that article" The report, however, recognised it would "clearly be beyond the jurisdiction and ambit of the committee to make any pronouncement on the question of a third force in general".

The committee found that the involvement of the security forces with Cuna was "incidental to and for the purpose of seeking to locate and recover AK-47 rifles" illegally smuggled into the country.

The committee also found there was "no evidence for the (newspaper) report being the result of an ANC-inspired conspiracy other than Cuna's unreliable say-so".

It was the probe into Cuna's allegations, lead by Major Hendrik Heslinga, one of the commission's investigators, which inadvertently led to the uncovering of a secret Military Intelligence unit, the Department of Covert Collection That caused President de Klerk considerable political embarrassment, and an inquiry into MI headed by Lieutenant-General Pierre Steyn followed and a number of senior military men lost their posts.

# Goldstone sets up Crossroads inquiry

Star 19/6/93

(252)

STAFF REPORTER

CAPE TOWN — A committee of the Goldstone Commission is to hold a public inquiry into violence in the squatter settlement of Crossroads, scene of some of the worst violence in the western Cape

Mr Justice Richard Goldstone, chairman of the commission, said the inquiry would start in Cape Town on July 2 under the chairmanship of former Attorney-General Niel Rossouw

He said continuing violence, resulting in widespread damage, injuries and deaths, was causing increasing concern. The violence and culture of intimidation was hampering law enforcement and efforts at peace-brokering

"In common with a number of bodies actively engaged in dispute resolution and mediation, the commission believes it has become necessary to hold a public inquiry," Goldstone said

The committee's terms of reference were to inquire into the nature and causes of the violence and intimidation, whether any acts of violence or intimidation were committed to achieve a political aim, who was involved, and what could be done about the situation

Goldstone said the commission called on the communities of the areas to remain calm, desist from confrontational conduct and support negotiations aimed at achieving peace

## Volatile

Yesterday Western Cape Regional Peace Committee chairman Professor Jaap Durand said Crossroads was the scene of the worst violence in the western Cape and that the situation was volatile.

He was speaking at an urgent meeting in Bellville to discuss the violence

At least 41 people had been murdered, including several policemen, in Crossroads this year There had been 60 arson attacks, 53 attempted murders and more than 100 armed attacks, Durand said

The committee also had information which indicated that in the past few months, more than 400 people had been directly affected by acts of political or criminal violence. At least 130 of them were children. Violence had displaced 105 people, and many others had packed up and left

Durand said the ANC in the western Cape and the local peace committee had not succeeded in ending the violence.

He hoped yesterday's meeting, attended by squatter leaders, the police, Cape Town mayor Frank van der Velde, Rossouw and members of political organisations would result in public acknowledgement of the crisis in Crossroads.

Among squatter leaders at the meeting were Christopher Toise, who has been toppled as leader of the Brown's Farm settlement, and Jeffrey Nongwe, the Crossroads leader who has been blamed for much of the conflict.

# Death vote 'gimmick'

THE death penalty was "a very serious matter" which could only be decided by a government of national unity, the ANC said yesterday.

Responding to the vote in Parliament which approved ending the moratorium on hanging, ANC spokesman Mr Ronnie Mamoepa said the present government did not have the legitimacy to discuss it.

Mr Mamoepa said the decision by the government to hold a debate which would have no practical effect showed it was an election gimmick.

The National Party said yesterday the moratorium on the death penalty woud continue for the foreseeable future in spite of the vote.

● Lawyers for Human Rights would oppose the resumption of executions with all resources at its disposal, a spokesman said yesterday. — Political Staff, Sapa

CT 19/6/93

A LATE-HOUR Supreme Court application by Plessey Tellumat SA Ltd on Wednesday has forced SOUTH to drop the article prepared for this space.

Because of the order, we are not even allowed to tell readers anything about the article.

The court ruling does not restrict other newspapers from reporting details of the case.

Contesting the restriction on behalf of SOUTH, Advocate Norman Arendse argued that the interests of press freedom should take precedence over the company's bid to block publication.

He also suggested that SOUTH be allowed to publish because Plessey Tellumat was free to institute a civil case afterwards.

Judge H Fagan was unconvinced by these arguments, saying that the "scales are balanced right over in favour of the company."

He also ruled that there was not enough time for Arendse to lead evidence that the disputed article was true and in the public interest.

Judge Fagan concluded by granting Plessey Tellumat a temporary interdict preventing publication of the article until August 2, when SOUTH will contest the order.

Arendse was instructed by Moosa, Wagley, Petersen and Associates.

South 19/6-23/6/93

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# Hanging in the balance

South 19/6 - 23/6/93

## ■ Death row prisoners await the outcome of a parliamentary debate on the death penalty

By Christelle Terreblanche (252)

THE LIVES of 285 people on death row could depend on the outcome of a parliamentary debate and "free vote" on Thursday State president FW de Klerk will be guided by the debate when he decides whether to lift the current moratorium on the imposition of the death penalty

Members of parliament have been urged to vote against lifting the moratorium, or not to take part in the debate.

Although the vote will not be binding and would be used to "guide state president FW de Klerk in a decision on the matter", outrage was expressed from political, religious and legal quarters when De Klerk decided in March to put the matter to the vote before a new political dispensation is in place

"The idea that the discredited tricameral parliament is sitting on matters of life and death of people they do not represent, is the ultimate crime," says Professor Kader Asmal, ANC constitutional expert and professor of human rights law at the University of the Western Cape.

Asmal sees it as significant that mostly white parties like the National Party, Democratic Party and Conservative Party are largely in favour of the death penalty, whereas the traditionally black parties are vehemently opposed to it.

The Afrikaans churches have also called for the lifting of the moratorium.

The ANC and Inkatha asked at Codesa last year that the moratorium on hangings not be lifted before the election of a new government, which will probably abolish the death penalty

Asmal's views are echoed by Society for the Abolition of the Death Penalty spokesperson Mr William Kerfoot, who has lobbied parliamentarians to vote against the moratorium being lifted.

"The moratorium placed on the death penalty in February 1990 was an excellent idea. But the reasons for lifting it now are entirely misconceived," says Kerfoot.

The government has said the debate is justified with the continuing violence and especially the killing of farmers

Kerfoot points out that if the moratorium is lifted now, the people executed will not be the ones guilty of these crimes

He believes there is enough evidence from all over the world that the death penalty is not a deterrent.

"The death penalty is a savage and barbarous punishment A better deterrent is a properly regulated and policed society" (~~258~~)

Asmal accuses the current parliament of "taking revenge" and playing up to its own constituency by holding the debate before the elections.

Of the 285 people currently on death row, 176 are blacks. The Department of Justice emphasises however that not all of these will be sent to the gallows if the moratorium is lifted, because only 52 have gone through the entire process of automatic appeal and revision of sentence.

"The obscenity of this lies in the fact that 95 percent of people on death row are not represented by the people who will decide on their fate," says Asmal, calling the debate a "charade".

Kerfoot also notes that in South Africa a huge part of the accused are hanged after trails in languages they cannot understand "Even without that hurdle, the chances of mistakes in a hearing are large."

He also mentions the unrepresentativeness of the judiciary, which is 95 percent white and the fact that some judges never hang and other do so regularly He calls it the "lottery aspect" of the penalty

Mr Michael Hendrickse, Labour Party MP for Schauderville, points out that the Law Commission said in its interim report on group and human rights in 1991 that the matter of the death penalty must be referred to a constitutional court to weigh it up against a bill of human rights.

This could only happen under a new constitution

He also remembers that De Klerk, along with ANC president Mr Nelson Mandela, appealed to the Venda authorities last year not to hang two ritual murderers

"We don't say that people must walk free But of the 20 000 people who committed murder last year, a minute percentage would be sent to the gallows," Hendrickse said.

Yet South Africa has executed more people in the past 15 years than most other countries in the world and most of them have been black. In 1987 alone, 164 people were hanged, more than were hanged in a whole decade in the United States

The Department of Justice argues that a bill of rights has little impact on the death penalty, because based on the American constitution, 36 of the country's 51 states have instituted hanging

Once parliament has voted, De Klerk will himself decide whether or not to bring back the noose.

# Koevoet link in Goniwe death?

South 19/6-23/6/93

By Shadley Nash (~~251~~)

A HIGH-RANKING police officer this week fought off accusations that he was running a Koevoet-style operation in the eastern Cape when the "Cradock four" were killed in 1985

Koevoet was a notorious police unit used during the war in Namibia

Colonel Eric Winter was called to give evidence at the re-opened inquest in to the deaths of Mr Matthew Goniwe, Mr Fort Calata, Mr Sicelo Mhauli and Mr Sparrow Mkhonto in the Port Elizabeth Supreme Court.

He was called to testify ahead of another policeman, Major Deon Niewoudt, who will be asked to testify in connection with the deaths of three policemen and an alleged police informer in 1989

It was alleged during testimony that there was a "nexus" between the deaths of the four policemen in 1989 and the Cradock Four and that Niewoudt, a bomb expert, had a lot to tell.

Evidence centred largely on the activities of the security police unit in which Winter served. Winter said that five of the 12 police personnel serving under him at Cradock had served in the former South West Africa but he could not confirm that any of them were members of Koevoet

He denied that he wanted to use Koevoet's operational methods in the Eastern Cape when he was head of the security police in Cradock from 1985 to 1990

In earlier evidence the court heard that Winter received daily reports from his team on the activities and conversations of Goniwe in his home and on his telephone via a bugging device

A transcript of a conversation Goniwe had with Port Elizabeth UDF activist Derek Swarts at 5am on the day that Goniwe disappeared was read in court Winter told the court he could remember informing Port Elizabeth police that Goniwe was on his way there

Counsel for the families of the four slain men, Mr George Bizos, submitted that Winter would have received the transcripts of that conversation on arrival at his office at 7am. He also submitted that Winter left his office 30 minutes later with two other policemen and did not return to Cradock that day — PEN

S/Times 20/6/93

# Witness discredited

By CHARLENE SMITH

THE Goldstone commission has found that an ex-Military Intelligence informer, whose evidence indirectly led to a commission raid on the top-secret Directorate for Covert Collection last year, is an unreliable witness.

The raid led to the DCC being disbanded and an investigation by the commission and Lieutenant-General Pierre Steyn into the top structures of Military Intelligence.

Ex-Mozambican soldier Joao Cuna's claims to the Afrikaans weekly Vrye Weekblad in October last year that he was involved in a massacre of civilians with policemen were untrue, the commission said in a report released on Friday. (252)

The commission also dismissed his later claims that the ANC had put him up to his web of fabrications.

The committee concluded there was no evidence to justify allegations of a Third Force instigating and perpetrating violence. However, the committee added it was unable to comment on whether there was a Third Force as such.

# Only homeland gaming on the agenda for now

S/Times (Buss) 20/6/93

By CHERILYN IRETON

HOTEL groups suspect that recommendations for the revamp of the gambling laws will gather dust until a new government is installed

At most, only one aspect of the Howard Commission recommendations — about casino licences — is likely to be dealt with this year. It would hasten reincorporation of the homelands in SA.

The Government has yet to respond to the Howard report, released in April.

A Department of Justice spokesman says the issue could come before the Cabinet on Wednesday

But government and opposition sources say it is highly unlikely that a bill will be tabled in Parliament this session

"They are still merely recommendations," stresses Kessel Feinstein Consulting managing director Delano Caras. "We may not see the Government act on them at all

"But something has to be done about the casino recommendations before the TBVC states are reincorporated in SA It would not surprise me if nothing much else happens" (252)

The commission recommended that 10 licences be granted for casinos located at least an hour's drive from metropolitan areas and that applicants prove sufficient demand

Democratic Party MP Tony Leon will ask the Government in Parliament on Tuesday to react to the report.

"I think they are ducking the issue We could have had the legislation through by now

The licences would be granted over and above the casinos already operating in the TBVC states.

Mr Caras says in his annual study of the tourism and leisure trade: "As official policy — insofar as one can deduce it — seems to be oriented towards boosting tourism, it would be surprising if the ultimate legislation, originally promised for 1993, differs substantially from what is foreshadowed by the recommendations

"But some interesting questions arise. how exactly will projects competing for a licence in a particular area be evaluated and whose divine inspiration will determine which is the best?"

"Will this or a future government be able to resist the temptation of treating the casinos as cash cows and taxing them to death?"

Mr Caras says the commission has sensibly suggested a levy of 15% on winnings

Sun International managing director Peter Venison says his group is unable to plan more casinos until it knows what the rules of the game are

# Hanging divides cabinet

S/Times 20/6/93

By EDYTH BULBRING and NORMAN WEST

THE cabinet was deeply divided over President FW de Klerk's decision to ask Parliament to vote this week on lifting the moratorium on the death penalty

Some ministers, including Foreign Minister Pik Botha, warned that if Parliament voted to lift the moratorium, as it did, it would be politically impossible for the government to carry out its mandate. And, when it failed to do so, it would once again be seen to suffer a humiliating setback

Others, led by Law and Order Minister Hernus Kriel, insisted that Mr de Klerk abide by his undertaking to allow Parliament to vote on hanging If the decision was in favour, he argued, hangings should be re-introduced forthwith

As a result of these divisions, senior government sources said, the cabinet struggled for two weeks to come up with a formulation that would fulfill Mr de Klerk's promise that the death penalty issue would be revisited, without committing the government to hanging anyone

The compromise formula was to allow Parliament to vote but then to refer the matter to negotiators at the World Trade Centre before making a final decision

(252)

Given the strong opposition to the death penalty of major World Trade Centre parties such as the ANC and Inkatha, the government knew full well that any decision by Parliament to re-introduce hanging would be overturned by the negotiating body

Perhaps for this reason when Parliament debated on Thursday whether or not to hang the 285 prisoners on death row, more than 120 MPs did not cast their votes

The House of Assembly and House of Representatives voted overwhelmingly in favour of the death penalty but the House of Delegates voted against

Although National Party MPs were allowed a free vote, only four voted against the motion put by Minister of Justice, Mr Kobie Coetsee "that the House is of the opinion that the government should revoke the suspension of the carrying out of the death sentence"

They were Mr Sakkie Louw, MP for Newton Park, Mr CJW Badenhorst of East London, and two deputy ministers, retiring Deputy Minister of Land Affairs Johan Scheepers and Deputy Minister of Justice, Mrs Sheila Camerer

Mrs Camerer voted against the motion, according to the minutes of the proceedings, despite having said during the debate that although she was against hanging she would support the motion "to strengthen the hand of the State President at the negotiations"

The exercise was best summed up by two speakers in the debate

The burly independent MP for Overvaal, Advocate Koos van der Merwe, called it an exercise in futility as the government would not be bound by the outcome

Democratic Party justice spokesman Tony Leon called it "a piece of chicanery"

# Abuse claim

S/Times 20/6/93

THE Motsuenyane commission into alleged abuses at ANC camps heard this week that three Quatro camp inmates had complained of eardrum damage caused by torture.

However, the ANC's former medical chief in Angola, Dr Haggar McBerry, said the allegations were false.

He said it could not be confirmed that a fourth inmate had suffered a broken limb as a result of torture.

The commission heard its last evidence on Friday and is due to report by the end of the month.

# Police chief grilled about fateful day

By DAWN BARKHUIZEN

THE movements of Eastern Cape security policemen in the 24 hours leading up to the murders of four Cradock activists have been the subject of incisive questioning in the Port Elizabeth Supreme Court this week S/Times

Mr George Bizos SC has grilled Colonel Eric Winter — head of the Cradock Security Branch at the time — relentlessly for answers to an eight-year-old question: Who killed Matthew Goniwe, Fort Calata, Sparrow Mkhonto and Sicelo Mhlauli? 2016193

The SAP veteran has been less than illuminating in his responses, claiming frequently that he cannot remember details about June 27 1985 which, he says, was "just another day".

Colonel Winter admitted the police had monitored Mr Goniwe's movements and activities closely, but claimed he did not know whether a sophisticated bugging device — the "tamatie" — had been placed in his house.

Colonel Winter's signature appears in the Cradock Security Branch logbook — produced in court this week — against a note that a phone call in which Mr Goniwe had discussed a proposed visit to Port Elizabeth on June 27 1985 had been recorded.

However, he told the court he did not remember whether there had been a written report on his desk to the effect that Mr Goniwe would be visiting Port Elizabeth that afternoon to see UDF activist Derrick Swarts

The early morning conversation was brief, a transcript shows:

*Swarts:* Hello.

*Goniwe:* Hello . how is it?

*Swarts:* I'm all right and you?

*Goniwe:* I'm all right I just want to find out if you are awake

*Swarts* Ja, ja, what is the time now?

*Goniwe:* Just about half-past-five Well, I'll be seeing you, OK?

*Swarts:* Listen, man, you must phone Barry du Toit. Do you know this guy Barry? 252

*Goniwe:* Ja.

*Swarts.* 7752 Grahamstown, you know

*Goniwe:* When?

*Swarts:* You can phone him tomorrow morning in connection with the briefing — you know, in connection with that, you know

*Goniwe.* Otherwise, I will be seeing you this afternoon, OK?

*Swarts:* Ja, OK brother, sure.

Mr Bizos said Colonel Winter had telephoned Port Elizabeth after reading the transcript

Colonel Winter said it was "possible" he had done so, but said he did not remember doing so

According to Mr Bizos, Colonel Winter and two colleagues left the office at 7.30am on June 27 and did not return that day.

The colonel said he would have to check the vehicle report to establish whether this was so.

Asked where he was from 7 30am on June 27 to 7.30am the following day, he replied, "Probably in my office . . I don't remember specifically".

Nor could he remember whether he had attended a meeting on the night of June 26 at Louis le Grange Square, the SAP headquarters in Port Elizabeth, which a Captain Sakkie du Plessis of the Murder and Robbery Squad had also attended

Asked where PE security policeman Captain JM van Zyl was on June 27, he replied: "At the Security Branch in Port Elizabeth"

The four activists were murdered after leaving the home of Mr Michael Coetsee in Port Elizabeth at 9'10pm Their charred bodies were later found at Bluewater Bay.

# Unravelling a sinister web of intrigue

By MARLENE BURGER (252)

WHEN the inquest into the murder of Matthew Goniwe reopened on March 1, the spotlight was firmly on the SA Defence Force

It was, after all, the release last August of the infamous signal recommending the Cradock activist's "permanent removal from society" that prompted President FW de Klerk to order a new judicial inquiry into the brutal killings of the schoolteacher and three companions on June 27, 1985

But when the inquest reconvened this week, the focus shifted dramatically as unlikely allies — Anton Mostert, SC, for the SADF and George Bizos, SC, for the families of the dead men — set about building a case to prove security police complicity in the murders.

To whom does the finger of guilt point the army or the police?

The evidence against the army is certainly impressive Affidavit after affidavit refers to the Hammer Group, a secret unit set up in September 1983 by Joffel van der Westhuizen — then a brigadier and officer commanding Eastern Province Command, now a lieutenant general and the SADF's Chief of Staff Intelligence. S/Times

In his affidavits, General van der Westhuizen — the man who allegedly sent the June 7 1985 signal — says the Hammer Group was a quick reaction unit, whose members were drawn from Citizen Force ranks and trained for specific operations demanded by the volatile situation prevailing in the Eastern Cape at the time

One of the unsolved mysteries about the Goniwe murders is how the four activists fell into the clutches of their killers

They were returning to Cradock around 9 30 that Friday night, after a meeting in Port Elizabeth with UDF activist Derrick Swarts

The most popular theory about their abduction is that they were stopped at a roadblock set up by the Hammer Group 20/6/93

But the unit's chief training officer, Commandant Andries Struwig, and several former members of the group claim that the SADF never set up roadblocks, though troops did assist the SAP in manning them from time to time

Exhaustive investigations have failed to produce any evidence of an official roadblock on the Bluewater Bay road on the night of June 27

At the first inquest into his death, in February 1990, Goniwe's widow, Nyameka, said she believed the murders were carried out by the Security Police, who were the only people, besides herself, who knew by dint of telephone taps that they would drive home that night

One of the strongest pointers to Hammer Unit involvement in the murders emerges from the bizarre tale of self-confessed thief, prostitute and police informant, Jennifer du Plessis

In her affidavit, she claims that her ex-lover, Hammer Unit administrative officer John Scott, told her that a "hand-picked" group of policemen and SADF members led by "Zac Edwards" had killed the Cradock Four after apprehending them at a roadblock.

On June 1 last year, she arranged to meet Scott at the Formosa Inn in Plettenberg Bay

According to Miss du Plessis Scott admitted to her at the hotel that he had killed Sparrow Mkhonto "because he was a kaffir".

Scott denies that he ever spoke to her about the Goniwe murders, and although Miss du Plessis claims their conversation at the Formosa Inn was taped, Colonel Britz says three tapes allegedly made at the time contain no confession of any kind from Scott

# The mysterious major

THE GONIWE INQUEST

S/Times 20/6/93

**The resumed inquest into the death of murdered Eastern Cape activist Matthew Goniwe witnessed an astonishing turnaround this week when the army suggested the 1985 slaying might have been the work of the police.**

**Counsel for the SADF, Anton Mostert, referred to the death of four black policemen in a mysterious limpet mine attack in Motherwell, near Port Elizabeth, in December 1989.**

**He suggested that they might have been killed because at least one of them knew too much about the Goniwe murder — and was threatening to spill the beans.**

**At the centre of this web of intrigue, suggested Mostert, was one man ... Major Deon Nieuwoudt, explosives expert** (252)

By DAWN BARKHUIZEN

ON THE night of December 14 1990, a Port Elizabeth security policeman ordered a surveillance group to stake out a house at 124 Hinta Street, Motherwell, in the Eastern Cape, where a trained terrorist known as Mandla Maqhubela was reported to be hiding

Less than four hours later, the four members of the group were dead — blown to pieces by a powerful car bomb within seconds of setting off to the address.

The man who gave the orders that night was Captain Deon Nieuwoudt, a highly trained SAP explosives expert, who had since 1984 been closely involved in investigations involving explosives, and who was, by his own admission, familiar with all explosives made in South Africa and smuggled in by terrorists.

This week, a gasp went around the Port Elizabeth Supreme Court when a lanky man who has sat in on the Matthew Goniwe inquest every day since it reopened on March 1, was identified as Major Deon Nieuwoudt — a lieutenant in the PE security branch at the time of the Goniwe murders He is now accused by Mr Anton Mostert SC of being at the centre of a "quartet of coincidences" surrounding the limpet mine blast, which could suggest police complicity in the murders of not only the three policemen and an informant, but also those of the four Cradock activists in June 1985

According to Mr Mostert, the inquest record of the Motherwell car bomb is "so fraught with coincidences as to turn a feather into a millstone'

The coincidences he lists are: Major Nieuwoudt was in charge of the operation that culminated in the death of the four victims, he was just 100m from the scene when the explosion occurred, he examined the scene and gathered material "with ample opportunity to suppress evidence or commit any other irregularity" and he conducted himself as the investigating officer afterwards

The record of the inquest into the deaths of Sergeant Amos Faku, Sergeant Desmond Mapipa, Warrant Officer Glen Mogaduka and informer Charles Jack tells the story

According to Major Nieuwoudt, he contacted Sergeant Faku and Sergeant Mapipa by radio at the New Brighton police station and told them to place the Motherwell house under surveillance.

Sergeant Faku, he says, suggested that he supply them with a vehicle for the job, as the Kombi they usually used was well known in the township as an SAP vehicle

Major Nieuwoudt telephoned Warrant Officer Gerhardus Lotz and told him to draw a white Volkswagen Jetta — registration SAP65389M — take it to the old Monument crossroads near Motherwell and wait for him there

At 10 45pm, Major Nieuwoudt went to the home of Officer Mgoduka and asked him to accompany the two sergeants and an informer, Xolile Sakati — or Charles Jack — to Motherwell.

At 11.50pm, Major Nieuwoudt handed the Jetta to the surveillance group at the crossing on the little-used Addo road and Officer Lotz drove off in their Kombi to return to SAP headquarters in Port Elizabeth.

According to Major Nieuwoudt, "the black members left for Motherwell" and he drove off in the direction of Uitenhage to see a PAC informer

## Mutilated

"About 100m from the crossroads, an explosion occurred. I immediately turned around and rushed to the scene I found that an explosive device had been placed under vehicle SAP65389M," he said

The mutilated bodies of the four occupants were strewn around the veld, and in the wreckage, Major Nieuwoudt said, he found a VZD-3M detonator

Reports at the time indicate that the blast — the first of its kind in the Eastern Cape — blew a crater in the tarred surface of the road, and that the type of limpet mine used would have generated a "massive ball of flame with temperatures reaching 3 000 °C — more than double the heat required to melt cast iron"

In his affidavit, however, Constable Lemadu Adams of the Security Branch says he drew the Jetta on the morning of December 13 and after using it, turned the keys over to a Constable Muller at Louis le Grange Square, from whom he received them again the next morning.

But Constable Adams also says he drove to work in the car at 7am on December 14, the day of the blast, parking the Jetta under trees at the Old Grey sportsgrounds opposite the SAP headquarters before turning the keys over to Officer Lotz.

The Warrant Officer said, however, he borrowed the car from Major (then Captain) Nieuwoudt at 9am, when he left to see an informer

After driving to a post office to see if examination results had arrived and going to buy cigarettes, Officer Lotz parked the car under the trees at the Old Grey sports ground, and put the keys "back on Captain Nieuwoudt's table"

At 11 30 that night, he had a call from Major Nieuwoudt, asking him to take the white Jetta to the Motherwell/Addo-Uitenhage/-Coega intersection. He took the keys off Major Nieuwoudt's table and drove to the rendezvous, waited until the major and the surveillance group arrived, then returned to Port Elizabeth in their Kombi.

MAN IN THE MIDDLE
explosives expert Nieuwoudt
Picture courtesy SATV

His radio was turned off, he said, and it was only as he arrived at Louis le Grange Square that he realised this and switched it on, only to hear Major Nieuwoudt saying a bomb had exploded near Motherwell.

The official SAP vehicle register for the Jetta has no record of the car being signed out to either Constable Adams or Officer Lotz.

In fact, the last entry on the log shows that the vehicle was signed out at 4.05pm on December 8, and returned at 7am on December 11 — three days before it was blown to pieces.

A month later, an unnamed ANC spokesman in Lusaka was quoted in newspaper reports as claiming responsibility for the blast.

But the SADF's legal representative in the Matthew Goniwe inquest says he has information that "the man Jack was an Askari, a turned ANC activist, who had put out feelers to return to the ANC fold" and that Officer Mogaduka's loyalty was being questioned by the Security Branch at the time.

According to Mr Mostert, the Motherwell blast was "professionally planned and executed at a time when policemen were beginning to turn on policemen and go public with statements about police complicity in murder"

## Testify

According to his legal adversary, Mr George Bizos, SC, there may be a prima facie case of the Motherwell murders being supplementary to the Goniwe murders — if it can be shown that the three security policeman and the informer were, in fact, murdered to hide the identity of those who murdered Matthew Goniwe and his associates"

Major Nieuwoudt is no longer attending the inquest, but Mr Mostert has indicated he intends calling the policeman to testify

# No release for massacre cops

By FRED KHUMALO

FOUR policemen who killed 11 people in 1988 at a house in the Natal midlands settlement of Trust Feed have had their hopes of an early release scuppered by the Department of Justice.

The four policemen, who collaborated with former SA Police Capt Brian Mitchell and local Inkatha chairman Jerome Gabela in plotting the killing of the people, had applied for release in terms of the Indemnity Act

But the Department of Justice this week explained that "not a single person is due for release at this time"

This follows controversy after the release of Inkatha central committee member and former KwaZulu member of parliament Samuel Bhekizizwe Jamile

Jamile was serving a life sentence for the murder of his former tenant Joseph Bhekuyise Khumalo and the attempted murder of his fiancée, Thokozile Miriam Shabalala.

C/Press 20/6/93

Correctional Services spokesman Capt Koos Gerber confirmed this week that Dumisani Ndwalane, Khehla Ngubane, Thabo Sikhosana and Marshall Khambule had in February applied to the Department of Justice to be released.

Last year they were each sentenced to an effective 15 years in prison.

Mitchell – who instructed them to fire a volley of bullets at a house he said housed UDF supporters who had to be eliminated – is on death row in Pretoria Central prison

(252)

# Cop tells of file-shredding spree

A FORMER senior security policeman told the Goniwe inquest on Friday that he could not remember who had ordered him to destroy files on activists in 1990 following the national unbanning of organisations

"It was an order, a general order throughout the Republic," Col Eric Winter testified at the reopened inquest in the Port Elizabeth Supreme Court. (252)

Now Deputy District Commissioner of Police in Port Elizabeth, Col Winter was a major in charge of the security police in Cradock at the time of the slayings of Matthew Goniwe and three United Democratic Front colleagues on June 27 1985.

"It (the order) came from the section headquarters in Port Elizabeth. It was not a written order," Winter testified.

He said he could not remember either the individual who had issued the order to his office in Cradock – although he said this could have been a senior officer or a constable passing on the message – or the person who received it. C/Press

Winter said it took "two or three days" to destroy the files 20/6/93

"If they could possibly be used in the future they were not destroyed. There was no rigid guideline," he explained He told the inquest he did not destroy any "relevant" documents

He could not remember the exact date but said it was "possibly in the middle of 1990".

President FW de Klerk unbanned key anti-apartheid organisations, including the ANC, on February 2 1990

Later that month the original Goniwe inquest was held, returning a verdict of "death by persons unknown"

Earlier this week Winter confirmed he had been involved in a security police raid on Goniwe's home the month before the murders. – Ecna

# the news in brief

## Hangings will not start now

Sowetan 21/6/93

HANGINGS will not resume summarily now that members of Parliament have voted in its favour A spokesman for the Ministry of Justice confirmed this yesterday During a special debate and consequent vote on Thursday night, National Party and Conservative Party MPs voted 125 to 55 in favour of lifting the moratorium on hangings, which has been in place since February 2 1990 (252)

## Pole held in central Italy

A Polish man armed with a 30cm knife and a tear-gas grenade was arrested yesterday morning in Foligno, central Italy, minutes before Pope John Paul II was due to pass by, Italian police said The 33-year-old man, whose identity was not been revealed, was arrested on the route laid out for the Pope on a pastoral visit to the central Italian town

## Consumer confidence falls

Sowetan 21/6/93

CONSUMER confidence in South Africa has plummeted to it's lowest level in eight years, Stellenbosch University's Bureau for Economic Research says in ts latest survey released yesterday According to the survey, Black consumer confidence also dropped to its lowest level since 1986

## Date set for talks

Sowetan 21/6/93

INKATHA Freedom Party president Mangosuthu Buthelezi and ANC leader Nelson Mandela will meet for talks chaired by Bishop Stanley Mogoba and Archbishop Desmond Tutu on Wednesday, according to astatement from the Methodist Church and the Church of the Province yesterday The meeting is expected to focus primarily on the ongoing violence between IFP and ANC supporters in Natal

## Cold spell will remain

THE Weather Bureau yesterday reported that it will remain cold for the next few weeks with temperatures remaining well below freezing at most 's at least for the next few days - *Sapa*

**NEWS** ANC member faces 21 murder counts

# Wrong arrest - claim

Sowetan 21/6/93

**By Mzimasi Ngudle**

ANC MEMBER and multiple-murder accused Mr Michael Phama (45) was rashly arrested following pressure from the Goldstone Commission, his pro deo counsel, Mrs Rehana Essack, told the Rand Supreme Court on Friday

In her closing argument, Essack said the police arrested a wrong person after they went on "a fishing expedition" following criticism from the Goldstone Commission on the progress of their investigation (252)

"Police were on a fishing expedition with no direction who the person they were looking for was " [redacted]

She said police testimony that the attack was professional and planned did not tally with evidence by a State witness that Phama had asked for directions to where the Inkatha Freedom Party supporters were marching

Essack, who said she had no option but to close the defence case after the court turned down her application to call further evidence, also attacked the manner in which the State elicited a confession from her client

She has made an application for a special entry to appeal against Mr Justice MC de Klerk's refusal for the defence to call further evidence

The trial was postponed to June 29 for judgment Phama is facing 21 charges of murder, 22 of attempted murder and four of illegal possession of firearms and ammunition

He is alleged to have fired at IFP supporters marching to a rally in Tokoza on September 8, 1991 He has pleaded not guilty

Essack said the State's evidence rested purely upon the confession made by the accused She attacked the magistrate for having obtained the confession in an "irregular" manner

"The magistrate had a duty to inform the accused of the law, the procedure and the consequences This duty cannot be delegated to an interpreter as the magistrate in this case did," she said

# Commission told of ANC camp killings

B/Day 2/6/93

RAY HARTLEY

A MAN was executed and two others beaten to death by exiled ANC members, ANC deputy secretary-general Jacob Zuma told the Motsuenyane commission into abuses in ANC camps on Friday

Zuma testified that Jabu Zikalala had been executed after being sentenced to death by an ANC tribunal Zikalala had supplied the SA government with sketches and photographs which led to the bombing of the ANC's Katenge camp in Angola.

Zuma, who served as ANC intelligence chief from 1987 to 1991, said he was aware that Thabo Twala had been beaten to death in the "Sun City" jail in Zambia in 1989 and a man known as "Mahlatini" had died as a result of a severe beating at Pango camp in Angola in the early 1980s.

The camp's commander, known as "Mahamba", had participated in the beating of Mahlatini and had subsequently been exposed as an enemy agent, he said. But 11 others, alleged to have died while in the ANC's exile structures, were alive. Zuma handed the commission a list of their current occupations and wherabouts.

He said he had compiled a second list of 17 people who had last been seen when they had been infiltrated into SA by the ANC. "We believe that someone has to account for these people and that someone is the SA government," he said (252)

Former security policeman Capt Dirk Coetzee had told the ANC that police had "burned people to ashes" to get rid of evidence and to avoid taking them to court, he said. The ANC had infiltrated the police in various centres and had used police information to expose several government infiltrators.

Goodluck Mpungose, who was arrested by the ANC as an infiltrator, had lured Natal UDF leaders out of hiding during the state of emergency by offering to sprinkle them with herbs that would protect them against the police, he said.

The commission heard evidence for the last time on Friday It will sift through 2 000 pages of evidence from 45 witnesses, and report directly to ANC president Nelson Mandela.

# 'SA agents killed many in ANC'

Star 21/6/93

By Mokone Molete

A deadly game of espionage and counter-espionage between the ANC and the South African Security Police was described at the Motsuenyane commission on Friday.

ANC deputy secretary-general Jacob Zuma said that most SA agents who had infiltrated his organisation were "dangerous" and their activities resulted in the deaths of many MK recruits.

In particular, he mentioned David Mbatha, a man named McKenzie and Bheki Mpongose who "actually did a lot of damage" (252)

Zuma claimed they were recruited by the security police to spy on the ANC in exile They succeeded in

- Identifying MK cadres who had sneaked back into the country
- Booby-trapping arms which were hidden inside the country and this resulted in the death and injury of many MK cadres
- Exposing underground units of the organisation
- Fomenting the mutiny in ANC camps in Angola in 1984.

"We got information (on these people) from the files of the enemy (the South African security forces where the ANC had planted its own spies)," Zuma said

McKenzie, he said, had driven a car full of explosives to Botswana. This resulted in the deaths of many members of the ANC He denied that after his exposure Mbatha was beaten up by members of the ANC

# Call to scrap legal jargon

B/Day 2/6/93

GERALD REILLY

PRETORIA — The elimination of legal jargon from insurance policies and other contracts was an urgent matter, insurance consultant and Compuquote MD David Hersch said at the weekend.

The time had come, he said, to write legal contracts in simple language understood by laymen

Policy wording needed to be simplified The intimidating format of ordinary insurance policies had to be eliminated. (252)

Citing the example of an American insurance company which devised a simple commercial package insurance policy, Hersch said it had involved rewriting 300 forms, reducing the number of words by about 35% and translating into informal English.

**Patrick Laurence** seeks links between the murder rate and death penalty

Star 21/6/93

# Case for the idle hangman

(252)

THESE are tough times for opponents of the death penalty. The pendulum has begun to swing back in favour of hanging, especially among the anxious white community.

The moratorium on executions, formally introduced by President de Klerk on February 2 1990, but effectively stretching back to November 14 1989, has taken its toll.

Many people have forgotten the horror of mass judicial killings — the gallows in Pretoria is designed to hang seven people simultaneously — and the contradiction between South Africa's claim to uphold civilised values and its reputation as one of world's hanging capitals

The terrible month of death in 1987 when, in a macabre rush to complete scheduled executions before Christmas, 28 people were hanged, has slipped into the record book.

South Africans, of all colours, have become aware of the rising crime rate since 1989, a rate that seems to have increased exponentially and has far outstripped the tempo of population growth.

To quote figures compiled by the Institute of Race Relations in the May issue of *Fast Facts* Between 1983 and 1992 the murder rate increased by 132 percent, with increases of 62 percent for rape and 13 percent for serious assault.

The increase is actually more frightening. these figures are for reported crime only, and exclude crime committed in South Africa's 10 "homelands" where nearly half of the total population lives

The rising rate of crime is attributed by many South Africans to the moratorium on the death penalty; they believe that it has encouraged actual and potential criminals by removing the "ultimate deterrent", in practice if not in law.

The fear created by increased crime, by almost daily reports of the brutal murder of innocent people, many of them elderly citizens, is pervasive and difficult to resist

Liberal abolitionists are affected as much as their "unsentimental" compatriots, they too put up security gates, reinforce burglar proofing, instal alarm systems and — if they are honest — admit to an answering echo in their minds to the clamour for reactivation of the death penalty.

But on rational reflection the case for maintaining the moratorium is strong, perhaps even logically irresistible

One of the prime arguments for ending the moratorium is the assumption that the restoration of the death penalty will help end, or at least reduce, the violence

But there is no irrefutable evidence that the rising crime rate would not have occurred even if the hangman had not been sent on vacation The figures show that the increase predated the moratorium, that crime was on the increase even when the hangman was at his busiest.

In 1987 a record number of 164 people were hanged, but, judging from crime figures for 1986 and 1988, it seems to have made little impact and most certainly did not reverse the trend.

The relevant figures are. murder, an increase from 9 665 (in round figures) to 10 630; rape, an increase from 14 975 to 19 640; and serious assault, an increase from 110 365 to 125 570

But it must be admitted the crime rate has increased more sharply since De Klerk's February 2 moratorium announcement the number of reported murders rose from (round figures) 15 110 in 1990 to 20 135 in 1992. It does not follow, however, that the increase was due to the moratorium.

Several different factors may have been responsible: the inflow of AK-47 automatic rifles from Mozambique; the breakdown of authority generally as the old apartheid order collapses; the demoralisation of the overstretched police force; the growing impatience of the restless black majority with unrepresentative and, in their view, illegitimate government, and three years of severe economic recession and steadily rising unemployment.

In these circumstances to bring the hangman back may exacerbate the malady. De Klerk knows that better than most people. For that reason the vote in Parliament in favour of ending the suspension of the death penalty is unlikely to be acted upon.

The death penalty is a profoundly political issue in South Africa. The victims have been overwhelmingly black and poor, the legislators who defined what crimes were punishable by death were exclusively white for most of South Africa's history, and the judges who imposed the death penalty were similarly members of the white bourgeoisie.

It is important to record that the Criminal Procedure Act of 1977 identified 11 capital crimes, ranging from murder to housebreaking and including treason in a country where 70 percent of the people did not have the right to vote in parliamentary elections. The victims include guerillas.

The Criminal Procedure Act has since been updated. The clause making the death penalty mandatory for murder where the judge could find no extenuating circumstances has been removed

The doctrine of mitigating factors — a much wider and more generous concept which allows judges to take account of the criminal's life history rather than just immediate circumstances of the crime — has been introduced. Convicted murderers now have an unfettered right to appeal, a right which was not guaranteed to them under the old law

Even allowing for these refinements, however, the case for ending the moratorium is far from decisive.

There is no guarantee that the resumption of hanging will serve as a more powerful deterrent than long prison sentences Judicial killing cannot restore respect for life.

There is, however, a grave danger of increased political and criminal violence, perhaps even unprecedented rioting in the streets, if De Klerk's unrepresentative government starts to hang the nearly 300 prisoners on Death Row. □

# Govt will match all legal aid

CT 22/6/93 (252)

By BARRY STREEK
Political Staff

THE government announced yesterday it would match rand-for-rand any non-government assistance for legal aid

The Minister of Justice, Mr Kobie Coetsee, said that last year 684 246 people had appeared in the lower courts without legal representation but it would have cost an additional R557 million to provide them with lawyers

This was not financially possible now, from private or public funding, and South Africa did not have enough qualified people to provide legal assistance to all accused

However, Mr Coetsee added in the debate in Parliament on the Attorneys Amendment Bill, the government supported legal representation for any person who found himself in court

In 1992, compared to 1990, 49% more accused had legal representation in the lower courts and the government's contribution to the Legal Aid Board had increased to a record R65,5m in the current financial year

He said legal aid needed to be improved The government was willing to match any non-governmental assistance rand-for-rand

The legal profession should also be involved, and he welcomed the indication given by the Attorneys' Fidelity Fund that it was willing in principle to assist the Legal Aid Board

# ANC calls for black attorneys on bench

(252)

CT 22/6/93

JOHANNESBURG — Bold and unorthodox steps should be taken to reduce the virtually exclusive hold of white males on the judiciary, the African National Congress's legal specialist Mr Penuell Maduna argued at a legal conference here yesterday

Not only should the search for prospective judges be carried well beyond the traditional ranks of senior counsel, he said, but serious consideration should be given to specifically training judges

He said the judiciary should become broadly representative of the general population While there were many competent black attorneys with strong human rights records, black senior counsel could be counted on one hand, he said — Sapa

— were there to meet the diminutive whizzkid as she trundled into the arrivals hall at D F Malan Airport behind two huge suitcases and a briefcase of the "tools of her trade" — which she'll be revealing during her workshops.

When she was 13 Lana discovered a

disrupted during the violence and upheavals of the past few years.

All places have been filled and successful applicants will be notified by post this week, but Cape Town pupils may check with Mrs McMahon, ☎ 488 4029, whether they have been assigned places.

# Judge to inquire into attorneys' role

Political Staff (252) ARG 22/6/93

JUDGE of Appeal Mr Justice A J Milne has been appointed by President De Klerk to sit as a one-person Commission of Inquiry into the possibility of attorneys appearing in the Supreme Court

The appointment was announced today by Minister of Justice Mr Kobie Coetsee

Mr Coetsee said in his Justice budget vote in parliament earlier this year that the commission would look into the rights of audience of attorneys in the Supreme Court

Interested parties could immediately make submissions to Mr Justice Milne, Mr Coetsee said today Formal hearings would start on September 6, 1993

# NP loses coloured support to the ANC

B/Day 22/6/93

Political Staff

CAPE TOWN — A substantial drop in support for the NP had taken place this year among coloured people in the western Cape, a new public opinion survey has found.

The results of the poll, conducted in April, showed the NP was losing support to the ANC and DP, Research Surveys director Jannie Hofmeyr said yesterday.

The survey found 33% of coloureds would vote for the NP, 23% for the ANC, 10% for the DP and 4% for the Labour Party. It found 28% did not know who they would support.

Conducted in association with the Community Agency for Social Enquiry (Case), the survey polled 200 men and 200 women in the metropolitan areas of greater Cape Town

Younger people, high income groups and men favoured the ANC, while older people, lower income groups and women tended to favour the NP.

LINDA ENSOR reports that ANC regional chairman Allan Boesak attributed growing support for the NP among lower income groups to the "swart gevaar" tactics of the NP, which blamed job losses and retrenchments in the former coloured labour preference area on the influx of blacks.

At a news briefing yesterday, Boesak said membership figures in the western Cape had shown consistent growth since February and branches in coloured areas had been opened at an unprecedented rate

ANC assistant secretary Willie Hofmeyr estimated that membership in the western Cape now stood at more than 60 000.

Approximately 3 000 new people had joined every month over the past few months.

He said the ANC had launched a concerted membership drive in the coloured community since March Support had increased after the death of SACP leader Chris Hani and with the ANC's involvement in the education crisis, and the survey did not reflect growth in ANC support due to events since April.

Research Surveys' Jan Hofmeyr said the sharp growth in ANC support was only possible due to the high percentage of people who did not know who they would vote for or who said they would not vote for anyone

"We are dealing with a very ambivalent electorate which is very much in flux. There is such a high proportion of people who don't know who to support that to get an accurate picture, data has to be turned around every four weeks," Hofmeyr said. "Significant swings are still possible"

## Govt offers to boost legal aid

Political Staff

CAPE TOWN — Government yesterday announced it would match rand-for-rand any non-governmental assistance provided for legal aid. B/Day 22/6/93

Justice Minister Kobie Coetsee told Parliament during a debate on the Attorneys Amendment Bill that last year 684 246 people appeared in lower courts without legal representation and it would have cost R557m to provide them with lawyers.

This was not possible at present, from either private or public funding, and SA did not have enough qualified people to provide assistance to all accused.

In 1992 compared with 1990, 49% more accused had legal representation in lower courts and government's contribution to the Legal Aid Board had increased to a record R65,5m in the current financial year. (252)

"Legal aid, of course, needs to be improved. Until now, financial assistance from the private sector has proved disappointing. The government therefore declares itself willing to match any non-governmental assistance on a rand-for-rand basis," Coetsee said.

DP justice spokesman Tony Leon said government had to ensure the Legal Aid Board and law clinics were adequately funded to enable prospective attorneys to peform community service.

# Call to end white hold on judiciary

Star 22/6/93

(252)

By Jo-Anne Collinge

Bold and unorthodox steps should be taken to reduce the virtually exclusive hold of white males on the judiciary, ANC legal expert Penuell Maduna argued at a Johannesburg legal conference yesterday

Not only should the search for prospective judges be carried well beyond the traditional ranks of senior counsel, he said, but serious consideration should be given to the option of specifically training judges for office

Maduna's comments were made during his address to the 125th anniversary conference of the law firm Webber Wentzel.

He proposed that the appointment of judges should rest with a judicial commission and, in answer to questions about the risk of lowering judicial standards, replied "There is no guarantee inherent in being a senior counsel that you would be able to be nonracist, fair-minded and so on"

Maduna contended that the judiciary should become broadly representative of the general population And, while there were many competent black attorneys with strong human rights records, black senior counsel could be "counted on one hand"

In his wrap-up of the conference, Chief Justice Mr Justice Michael Corbett took issue with the notion of a representative judiciary

Conceding there was certainly a need for the judiciary to be less dominated by white males, the Chief Justice nevertheless queried "whether in any country a judiciary is representative or whether being representative is a primary function of the judiciary" He expressed the opinion that the composition of the judiciary was a product of history and could not be changed overnight

Speaking at the same conference, Mr Justice Richard Goldstone, of the Commission on Public Violence and Intimidation, said there was no chance of achieving a police force acceptable to the majority of South Africans "until a democratic government is in charge of the security forces"

He said he believed that good, strong policing by a credible force was central to the restoration of law and order But many other factors — such as rational programmes of affirmative action and the allocation of resources for education — would also be critical

# Amnesty gives fax on injustice

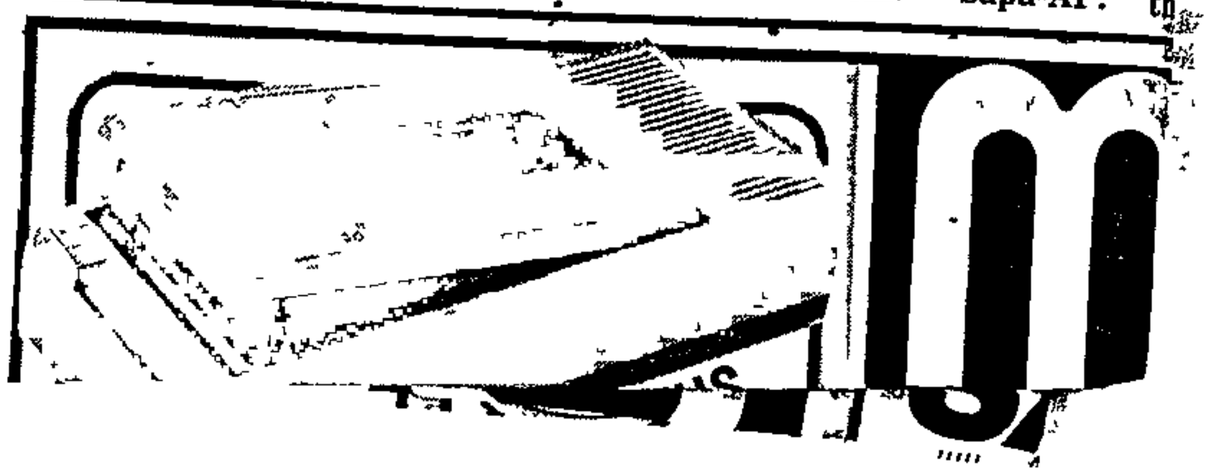
VIENNA. — Amnesty International has set up a human rights "fax action" system in the heart of the Vienna allowing passers-by to petition instantly for redress of abuses.

(252)

A spokesman for the human rights group said during the two-week World Human Rights Conference, people can pay 50 schillings (about R15) to send messages to governments about cases of "acutely threatened victims".

The spokesman said in the first week more than 8 000 faxes were sent to 14 governments ARG 22/6/93

Some governments have asked Amnesty for further details about alleged abuses, and the Egyptian Embassy has complained about the flood of paper the campaign had created in its fax room. — Sapa-AP.



# 'No quick change' in white judiciary

B/Day 22/6/93

SUSAN RUSSELL

EVEN if the recruiting ground for judges was widened it was still going to be a long time before suitable appointees other than white males were found, Chief Justice Michael Corbett said in Johannesburg yesterday.

He was speaking at the conclusion of a conference on the future of law in SA held as part of law firm Webber Wentzel's centenary celebrations

His remarks followed a speech by ANC legal adviser Penuell Maduna who said the current white male-dominated judiciary lacked credibility in the eyes of the population and would have to become more representative in a future SA.

"While I agree there is an urgent need for the judiciary to be less dominated by white males, at the same time there is great difficulty in finding suitable appointees to the Bench," Corbett said.

"It may well be that the recruiting ground for the Bench should be widened, but even in those circumstances it will be a long time before one is going to find suitable appointees other than, I am afraid, white males.

The Chief Justice said he understood the concern of black people going to court who came into contact with white male judicial officers

(252)

"But to a large extent that is a product of our history, social conditions and not something which I believe can be changed overnight."

Corbett said he believed there was nothing worse, for the public benefit and the morale of the individual concerned, than to appoint someone to the Bench who did not have the qualifications, because he soon realised his deficiencies.

"I have seen in my own experience the moral disintegration that takes place when a man is put in that position and realises it," he said.

Both he and Goldstone commission head Judge Richard Goldstone, who gave the opening address, expressed "cautious optimism" that law and order would be restored in SA.

Goldstone said one of the elements needed to restore law and order was good, strong policing from a force seen by the majority of people as friendly and intent on protecting the public's rights

"The police have already undergone dramatic changes," Goldstone said.

"I believe the SAP is much more conscious of the need for acceptance in the community and for the good co-operation of the community.

"There is not, however, very much chance of success before there is a democratic government that is in charge of the security forces."

Goldstone said his commission's own investigating team, which included local and international policemen, was a microcosm of what could happen, and what he believed would happen in SA in future

The SAP members of the team, he said, found that policemen were policemen everywhere and that their problems were the same, Goldstone said.

Local police officers working on the investigation team had thoroughly enjoyed the experience, he said.

# Water report castigates councils

B/Day 22/6/93

JONATHAN DAVIS

COASTAL municipalities could be seriously damaging valuable dune water resources, according to the Water Research Commission

Up to 50 local authorities are operating boreholes in dunes but have little expertise in the proper management of the vulnerable water resource, it says in a report compiled for the commission by the Institute for Coastal Research at the University of Port Elizabeth

The report found use of the aquifiers, or fresh water deposits, was much more extensive than had been suspected More research was urgently needed to prevent excessive use of aquifiers in dunes from damaging coastal environments

A questionnaire filled in by local authorities showed that few knew how much water was being extracted, or the full extent of their existing sources.

The report says water supplies in coastal dunes are a highly vulnerable and much abused resource

The quality of water in the aquifiers is important to the survival of coastal wetlands The extensive use of these sources may cause water levels in dunes to drop, with serious consequences for coastal vegetation The depleted aquifiers may also become contaminated with sea water.

Water sources in sand dunes are also vulnerable to pollution, because they are not protected by a layer of impermeable soil or rock. Because of this, the report stresses the careful management of sewage and other waste in any development in these areas

# More reforms to legal system debated

A CLUTCH of legislation which, if approved, will institute further reforms to South Africa's legal system, was debated in Parliament on Monday and yesterday

Discussing the Justice Vote earlier this session, Minister of Justice Mr Kobie Coetsee said the courts had to be accessible and a high standard of justice maintained

He described the Magistrates' Courts Amendment Bill, which proposes far-reaching reforms to the lower courts, as the most important The bill provides for separate adjudication structures for civil and criminal cases and so strengthen the lower court structure

The Attorneys Amendment Bill aims to make the law more accessible, and to enable the vast numbers of unrepresented people access to legal representation More than 650 000 people appeared in the lower courts last year without representation

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The Recognition of Foreign Legal Qualifications and Practice Bill is also milestone legislation and recognises the legal qualifications of returning exiles in some circumstances It is supported by all South African legal associations and political parties CT 23/6/93

● The one-man commission of inquiry into whether attorneys should be accorded audience rights in the Supreme Court will be presided over by Appeal Court judge Mr Justice A J Milne, Justice Minister Mr Kobie Cotsee said yesterday

Judge Milne said yesterday hearings would begin on September 6, and the commission would accept submissions until August 24 — Sapa, Political Staff

# Tools of the trade could lead to jail

Star 23/6/93

**Political Staff**

CAPE TOWN — Suspects found in possession of tools that could be used to break into cars and houses could be jailed for up to three years in terms of the General Law Third Amendment Bill tabled in Parliament yesterday by Justice Minister Kobie Coetsee.

The Bill has 82 clauses which contain a variety of amendments, deletions and rectifications to laws, and fill in legal gaps "which were disclosed primarily in the legal practice", a memorandum on the Bill said.

Changes to the Criminal Procedure Act of 1977 give peace officers the power to arrest without a warrant people they find in possession of implements for breaking into vehicles, if the suspects cannot account for the tools

The Bill makes punishable the possession of tools that can be used for housebreaking and breaking into vehicles.

Coetsee . . . Bill to close legal loopholes.

Such people can be liable to a fine or be jailed for up to three years.

An amendment to the Road Traffic Act of 1989 provides that for the foreseeable future, police taking breath speicmens from suspected drunken motorists also have to take a specimen of blood at the same time.

The Bill also grapples with the question of what sex a person is who has undergone a sex change operation.

Legislation dating back to 1974 allowed for people who had undergone sex change operations to have their sex altered on their birth certificate. However, a subsequent court case held that a person's sex could not be altered medically. The Births and Deaths Registration Act of 1992 therefore said people could not change their legal sex

However, some people had already started the process of changing their sex when the 1992 law went through.

A clause in the General Law Third Amendment Bill says a person who "was in the process of undergoing a change of sex" when the 1992 law went through can now apply for the sex description on his or her birth certificate to be altered

## DP agrees to write-off of loans

Star 23/6/93

CAPE TOWN — Loans made to black local authorities totalling R3 billion over 14 years were being written off in terms of the Finance Bill, the Democratic Party's Pinelands MP, Jasper Walsh, said in Parliament yesterday

Speaking during the second reading debate on the Bill, he said although it was sad to have to write off such a large sum, the DP supported the Bill in the interests of progress

The scrapping of the loans ended an experiment based on the failed ideology of apartheid which had been ill-conceived, badly managed and exorbitantly expensive to the taxpayer, Walsh said. — Sapa.

## Committee to probe 'dock briefs'

Star 23/6/93

CAPE TOWN — A five-member committee has been appointed to advise Justice Minister Kobie Coetsee on the system of "dock briefs", the Justice Ministry said in a statement yesterday. A "dock brief" occurs when the court appoints an ad hoc legal representative to a person in need of legal aid. The brief is then taken directly from the accused by an attorney or an advocate for a reasonably low maximum fee which is paid by the State. — Sapa.

## MP 'tried to delay printing'

Star 23/6/93

CAPE TOWN — Democratic Party MP Geoff Engel had tried to stop the printing of the Income Tax Bill to accommodate amendments which he had proposed, Deputy Finance Minister Dr Theo Alant said in Parliament yesterday

Replying to the first reading debate on the Bill, he said Engel, the Bezuidenhout MP, had approached the Minister of Finance with certain amendments dealing with unbundling He was asked to make written representations.

Alant said Engel then went to the parliamentary printers and insisted that the printing of the Bill be delayed "This was an attempt to promote his own private consultancy work through Parliament"

Engel repeatedly interjected that Alant's accusation was untrue — Sapa

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Engel repeatedly interjected that Alant's accusation was untrue — Sapa

# Goniwe: drama of missing men

Star 23/6/93

By Helen Grange

PORT ELIZABETH — Two unidentifiable corpses found in the same bushy area as Matthew Goniwe's body may have been those of Port Elizabeth Black Civic Organisation (Pebco) members who went missing without trace, it was suggested at the Goniwe inquest yesterday.

SADF counsel Anton Mostert, SC, said the bodies had been burnt beyond recognition, but there had been speculation that they were two of the "Pebco Three" — Sipho Hashe, Champion Galela and Qaqawuli Godolozi

The men went missing on May 8 1985 after leaving their homes to go to H F Verwoerd Airport to meet a visitor.

The two bodies were found on the Bluewater Bay road on June 16 — 13 days before the charred bodies of Goniwe, Fort Calata, Sparrow Mkhonto and Sicelo Mhlawuli were found in bushes off the same road.

Autopsies showed that they, like the Goniwe four, had been stabbed and their faces burnt

Mostert, cross-examining former Cradock security police commander Colonel Eric Winter, asked him whether these murders could have been committed by the same people who killed Goniwe

"Possibly," Winter said Referring to Goniwe's murder, Mostert asked "If the police did it, would it be understandable that the murderers were never caught?"

(252)

"Possibly," Winter replied

Winter conceded that the professionalism of the murders could point to police involvement

Mostert, clearly irritated, put it to Winter that in 19 instances during three days of cross-examination he had said he did not have knowledge of the subject matter, while he had evaded questions 83 times

"Does the disclaimer 'I cannot remember' form part of police equipment?" Mostert asked

Earlier, the court accepted that Major Gideon Nieuwoudt, the former PE Security Branch captain newly named in connection with a 1989 murder of policemen believed to have had knowledge of the Goniwe murders, would take the witness stand only on August 11

This was despite the vehement opposition to the delay by Mostert, who commented "The longer Nieuwoudt is kept out of the witness stand, the worse the inference is that he doesn't want to get into the stand"

SAP counsel Doep de Bruyn, SC, replied that Nieuwoudt was facing allegations of murder and that he had every right to have proper consultation

It was suggested by Mostert last week that Nieuwoudt was behind a limpet mine explosion which killed four policemen, including two security policemen believed to have been about to divulge information about the Goniwe murders

De Bruyn suggested that the evidence of security policeman Gerhardus Lotz be heard in the interim Mostert said "We don't want Lotz — we want Nieuwoudt Lotz should testify after Nieuwoudt"

De Bruyn "Despite Mr Mostert's continuous attack on the bona fides of his colleague, there is no ulterior motive in proposing that Lotz take the stand"

It was finally decided that Colonel Harald Snyman, former head of the PE Security Branch, would be the next witness.

# Magistrates poised to perform divorces

Star 28/6/93

(252)

Political Staff

CAPE TOWN — Parliament is about to pass legislation enabling magistrates to divorce people.

The Magistrate's Court Amendment Bill permits better-qualified magistrates to handle divorce actions which have, until now, been the domain of the Supreme Court

The contentious Bill, which has drawn criticism in academic and legal circles, was widely backed in a parliamentary debate on Monday night. It allows both disputed and uncontested matters to be heard by magistrates with LLB degrees

The change should, theoretically, provide cheaper divorces because they can be handled by attorneys, as advocates are not necessary in the lower courts They should also be quicker, and people in rural areas will be spared the expense and inconvenience of travelling to Supreme Courts in the major centres.

Justice officials are preparing to launch family courts, as they will be known, early next year

"I think the legislation will be on trial," said Tony Leon MP, a Democratic Party spokesman on justice. "I think family courts will have to prove themselves and rebut fears of the consequences. In theory they are a good idea, but time and practice will tell whether they are faster and a more accessible form of justice without a drop in standards"

Douglas Gibson (DP Yeoville) said the law would succeed in making the courts more accessible to ordinary South Africans but would fail to reduce litigation costs significantly

Speaking in the second reading debate on the Bill, he said it was likely that only the poor and indigent would make use of family courts contemplated in the Bill for divorce matters

Referring to opposition from the General Council of the Bar, he said "Some of us may have suspected that the advocates and attorneys adopted different approaches because of the different impact which the Bill has on the interests of each profession, but that would no doubt be unfair and unkind"

Natal Bar Council chairman Malcolm Wallis, SC, doubted that the change would significantly cheapen the divorce process But lengthy delays in the divorce process could be trimmed, attorneys said

Estimates on the length of an uncontested divorce in the Supreme Court at present vary from four to seven weeks and it costs roughly R1 500-R2 000

"Yes, an advocate must appear in the Supreme Court but his or her fees for uncontested divorce appearances are only about R350. Attorneys take the lion's share," said Wallis

"I do not believe attorneys will charge less than advocates to make an appearance in the Magistrate's Court"

Durban attorney Roger Knowles, who specialises in divorces, said the new legislation would cut costs by about R250

# ANC's day of judgment on nagging torture claims

Star 23/6/93

(252)

**The commission of inquiry into alleged human rights abuses in ANC camps has adjourned to prepare its findings. MOKONE MOLETE reports.**

STEEPED in controversy even before it sat — for being appointed by the ANC to judge the ANC — the Motsuenyane Commission, which adjourned last week, must make a finding on whether the organisation tortured or abused inmates it detained in Angola and Uganda.

A characteristic of the hearings has been the acknowledgement by all witnesses called by the ANC that beatings *did* occur in camps, but that nobody took personal responsibility.

Camp commanders, commissars and at least three senior ANC officials admitted they had been informed about the abuse of prisoners — or inmates as the witnesses and lawyers prefer to call them — but only one admitted beatings. And the punishment he had meted out to the prisoner was so minor — "a slap" — that it would not have warranted a commission of inquiry.

Former secretary-general Alfred Nzo told the commission most of the complaints he had received or heard of came from *agents provacateurs* who were intent of fomenting trouble. ANC camps were in the main not there as torture chambers but to "educate these people politically".

This theme was carried through by various security and intelligence officers in their evidence to the commission.

The commission is headed by former Nafcoc president Dr Sam Motsuenyane, sitting with Zimbabwean advocate David Zimchiya and American judge and anti-apartheid activist Margaret Burnham. The hearings were a sequel to critical reports by the International Society for Human Rights (ISHR) and an Amnesty International report, the Douglas Report, which found widescale abuses in ANC camps. The Douglas Report was funded by the conservative International Freedom Foundation.

The ISHR was blunt in its condemnation of the ANC. "The human rights record of the ANC can be split into two parts: in exile the prolonged detention, savage torture and killing of opponents, and inside South Africa the assassination and intimidation of opponents and critics."

It called the ANC's response to complaints "at best, grudging and half-hearted".

The Motsuenyane Commission heard, inter alia, that.

- Measures of torture included beatings until prisoners were unconscious, the rape of women, and forcing prisoners to eat bottles;
- Some inmates did not receive regular medication or food;
- Prisoners were locked in badly ventilated cells,
- A prisoner was jailed for years without medical treatment despite having broken fingers and a painful shoulder.

Most of these alleged abuses took place at Quatro camp, also called Camp 32, in Angola.

In response, witnesses called by the ANC testified that:

- It was not a policy of the organisation to torture or abuse its dissidents in any way;
- As a signatory to the Geneva Convention on the treatment of prisoners of war it was bound to treat its prisoners in a humane way.

High-ranking officials who gave evidence before the commission — including deputy secretary-general Jacob Zuma, head of security Joe Nhlanhla, Umkhonto we Sizwe chief Joe Modise and former head of security and intelligence Mzwandile Piliso — denied prisoners had been tortured.

"Such behaviour was not only a breach of my own words, but of the policy of the ANC," Piliso told the commission.

The organisation's medical officer in Angola, Dr Hagger McBerry, said he had neither received reports of ill-treatment nor treated anyone who had been ill-treated.

Motsuenyane, who is supposed to release his findings by the end of the month, is faced with a daunting task. Besides denials by ANC witnesses that they had been involved in human rights abuses, they stated that allegations against them were made to undermine the organisation.

Even more challenging will be the fact that those who had heard of the abuses contextualised them in terms of difficult conditions in war-torn Angola, where supplies were scarce and communication difficult.

Motsuenyane, however, seems unfazed. He believes a just finding will be made. "As long as we have heard all sides by the end of our inquiry, we will be able to make balanced findings Then it's back to the ANC to consider sanctions. That is not within our brief." □

Sowetan 23/6/93

# Move against thieves

(252)

SUSPECTS found in possession of tools that could be used to break into cars and houses could be jailed for up to three years in terms of the General Law Third Amendment Bill tabled in Parliament yesterday by the Minister of Justice, Mr Kobie Coetsee

Changes to the Criminal Procedure Act of 1977 give peace officers the power to arrest without a warrant people they find "in possession of implements of car breaking" if the suspects cannot account for the tools

The bill makes punishable the possession of tools that can be used for housebreaking and breaking into motor vehicles Such people can be liable to a fine or jailed for up to three years

An amendment to the Road Traffic Act of 1989 provides that for the foreseeable future, police taking breath specimens from suspected drunken motorists also have to take a specimen of blood at the same time — *Sowetan Correspondent*

Star 23/6/93

# 'SADF kept Inkatha info from FW'

By Martin Challenor
Political Staff

CAPE TOWN — The SADF did not give President de Klerk the full facts about its training of 200 Inkatha Freedom Party supporters in the Caprivi Strip in 1986, the Goldstone Commission has said

Mr Justice Goldstone's report on the training at the Hippo camp was released today

The IFP supporters were recruited by M Z Khumalo, who was then the personal assistant to KwaZulu Chief Minister Mangosuthu Buthelezi, the report said

Brigadier Mathe, then Acting Commissioner of the KwaZulu Police (KZP) told the commission that there was an urgent need for personnel to protect VIPs, public buildings and installations because of ANC "acts of terrorism"

The KZP did not have sufficient funds for this type of training Mathe claimed that Khumalo had told him that a private company was prepared to arrange and pay for the training

"Only later when Mathe visited the trainees at Caprivi did he learn that the source of the funds was Military Intelligence The plan from the beginning was to absorb the recruits into the KZP. Dr Buthelezi, who was also Minister of Police, was aware of the training," the report said

Khumalo told the commission that the KwaZulu authorities had approached the SADF "and that it agreed to train the recruits". Khumalo and Mathe each held the other responsible for arranging for the SADF to train the recruits.

The SADF told the commission that at the beginning of 1986 the army was approached by the KwaZulu authorities about security in KwaZulu since it did not have an adequate security intelligence structure or adequately trained personnel "The requirement was to train people for the protection of the Chief Minister, other VIPs, protection of buildings and the gathering of intelligence"

The training was financed out of the Defence Budget secret account

Besides weapons training, recruits learnt how to "educate the broad public and make them less vulnerable to intimidation and the activities of insurgents .."

Although none of the trainees became SADF members, the SADF paid their salaries The secrecy of their training was impressed upon them After six months training, they returned to KwaZulu and had no further direct contact with the SADF.

The report said that because of administrative and financial problems, the KZP were unable to incorporate most of the trainees before June 1989

"The SADF continued to pay salaries to the recruits until their incorporation into the KZP Bridging finance for that purpose was paid by the SADF to the KwaZulu authorities over a seven month period in 1989".

## Unsatisfactory

The report said. "The evidence as to the activities of the trainees after their return to KwaZulu is highly unsatisfactory. The probability is that the majority of them were kept idle. A small number were used for the protection of Dr Buthelezi and IFP offices

"When the matter became public in consequence of disclosures in the Weekly Mail, the SADF informed the State President that the purpose of the training of about 150 Zulus was for security and VIP protection. This does not reflect the full picture. Had the full extent and wide-ranging nature of the training been disclosed at the time, the negative result of the information which subsequently came to light would have been averted, the report said.

There was no evidence at all to suggest that the SADF provided the training to help establish "hit squads"

However, "the nature of some of the training, the secrecy of the project, the lack of candour when the truth began to emerge and the connection of trainees with acts of public violence continue to fuel the perception that the SADF was assisting the KwaZulu government and that IFP leaders built a private hit squad facility for use against the UDF and later the ANC"

Although some Caprivi trainees could be involved in some current acts of violence there was no evidence to suggest that such involvement was a direct result of the training they received at the Caprivi, the report said

The inquiry was made necessary by the secrecy of the training and the unwillingness of the people involved to invoke public disclosure when the inevitable leaks began to emerge.

The commission said it was the people involved who created the secrecy and kept from the public what what was being done with public funds who were responsible for incorrect inferences that other people drew.

# 'No win, no pay'

THE Bar Council took the unusual step yesterday in allowing advocate Mr Neil Lazarus to act on a "no win, no pay" basis for the victims of Masterbond in a Supreme Court case against the Financial Services Board and the Reserve Bank. (252)

Reports said Mr Lazarus will act for the Masterbond Victims' Association in a so-called class action, based on the claim that the board and the Reserve Bank knew from 1985 that Masterbond was accepting deposits illegally from the public.

Association chairman Mr Don Mackenzie said the victims would have to pay nothing if they lost the case. Victims should write to Box 7092, Blanco 6531. — Sapa.

CT 24/6/93

**NEWS** Insurance agents acquitted

# R1-m could still become theirs

(252)

Sowetan 24/6/93

**By Joe Mdhlela and Mzimkhulu Malunga**

Kobus Kruger

Lukas Loubster

THE two former Sanlam employees who were yesterday found not guilty of murder and fraud, Mr Isak Kruger (31) and Mr Lukas Cornelius Loubser (27), may still collect the R1 million payout from the policies of the Witbank "scam" victims

"We will not automatically pay them but should they put in a claim based on the policies and what the judge said, then we would reassess the claims," Sanlam's media relations manager, Mr Peter Schoombee, said.

Both men will not be reinstated to their jobs as they had resigned

Sanlam had paid R8 000 to each of the victims' families, Schoombee said

Eighteen months ago, Witbank made headlines following the death of five black men who plunged to their deaths in a minibus driven by Loubser Three men survived.

And that began the so-called insurance 'scam" case, which implicated the former Sanlam insurance agents The policies were worth R1 million

The survivors said the inside door handles of the vehicle had been removed They also said the windows had been painted black and there had been 50 litres of petrol in the minibus with them

The survivors also claimed that Lukas Loubser had parked the vehicle on the side of the road close to a ravine

He appeared to be checking the engine at the rear of the vehicle, when suddenly the minibus rolled down the cliff

They also claimed that Kruger had followed them in another car

The death of the five caused a furore The African National Congress also entered the fray Concerned that police appeared to be dragging their heels, the ANC urged police to speed up investigations

Parents and political activists accused police of being reluctant to arrest Kruger and Loubser

The ANC eventually succeeded in arranging a meeting with high-ranking police officers Nineteen days later, the suspects were arrested and charged with fraud They were each released on R5 000 bail

At the instigation of the ANC, an investigation revealed that the vehicle had been cleaned out' of any vital evidence that could help in making a strong case against the suspects

Forensic scientist Dr David Klatzow said "There should have been a lot of debris which is not here "

As the case progressed at the Witbank Magistrate's Court, the accused were confronted by angry crowds demanding to know "why did you kill our people? '

One broken old lady, whose son died in the fireball horror, said We suspect that justice will not be done "

This was after she had attended court for the hearing and was told the case had been postponed the previous day

At one stage the court had to be cordoned off to prevent spectators from streaming to the hearing

Part of the court evidence was that Kruger and Loubser had made themselves beneficiaries of policies issued in the names of the dead and injured

Two weeks ago, Sanlam senior official Ms Hilda Louw gave evidence to the effect that Kruger and Loubser had taken out 17 policies for 17 people and that both were beneficiaries in all cases

There was also evidence which suggested that the five victims who died had been given an intoxicating drink and snacks before the minibus left on its final journey

Giving evidence for the State, Mr Lazarus Mmathi said the drink had made him feel dizzy

Yesterday Kruger and Loubser were acquitted

# Training of soldiers criticised

Sowetan 24/6/93

THE secret training in the Caprivi by the SA Defence Force of 200 Inkatha supporters was unfortunate and added to the suspicion and perception of political bias by the KwaZulu police and the SADF. (252)

This view is contained in the Goldstone Commission report, released yesterday, of the inquiry into allegations concerning front companies of the SADF and the training by the army of Inkatha supporters in the Caprivi in 1986.

## Hit squads

There was no evidence to suggest that the SADF provided the training for "hit squads" being established, the report said.

However, the nature of some of the training, the secrecy of the project, the lack of candour when the truth began to emerge and the connection of trainees with acts of public violence all continued to fuel the perception that the SADF was assisting the KwaZulu government and IFP leaders in building a private hit squad facility to use against the UDF and later the ANC. — *Sapa*

sday, June 24 1993

# Caprivi training: FW kept in dark

B/Day 24/6/93

PRETORIA — The SADF had not fully informed President F W de Klerk of the secret training 200 Inkatha supporters underwent at a Caprivi camp in 1986, the Goldstone commission has found.

In a report published yesterday, the commission said information passed on to De Klerk by the SADF, and known by Inkatha leader and KwaZulu Minister of Police Mangosuthu Buthelezi, "did not reflect the full picture" (252)

The investigation into the "Hippo base" trainees was launched in February last year following allegations that, with SADF backing, they had embarked on hit squad activities against ANC-aligned organisers

The commission said the full extent and wide-ranging nature of the training had not been disclosed to De Klerk, who had been told the purpose of training "about 150 Zulus" was "for security and VIP protection"

The secrecy of the project had fuelled the perception that the SADF was helping KwaZulu Police and Inkatha leaders to build a private hit squad facility, the report said

While the commission found no evidence that the SADF had provided training with the specific purpose of establishing hit squads, the inference could be drawn that the 200 trainees "were not trained solely for VIP protection", the report said

The commission pointed to a number of aspects uncovered during the investigation which it described as highly unsatisfactory

ADRIAN HADLAND

These included the inability of the KwaZulu Police to produce a single file concerning the training or subsequent deployment of the trainees, the lack of any SADF documents regarding financial support for the project, and the "inefficiency and lack of control which were the hallmarks of the whole exercise" (264)

The commission described the nature of training given to the personnel and the lack of any subsequent control of trainees as a "grave error of judgment on the part of the SADF"

The report also dealt with allegations that the SADF had funded violence in black townships through a series of front companies while the SAP was alleged to have trained and organised the violent "Black Cats" gang near Ermelo.

In neither of these investigations was evidence uncovered supporting the allegations.

Police Commissioner Johan van der Merwe said in a statement yesterday the findings were welcomed. The manner in which the police had handled cases involving the Black Cats — described as deplorable — were being investigated internally, he said.

SADF chief Kat Liebenberg said while the situation and its secrecy dated to a period when the defence force was involved in fighting terrorism, the commission had found no evidence of current SADF involvement in violence

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# Keep it clean, critic tells Bop's opponents

RAY HARTLEY

BOXING World editor Bert Blewett yesterday criticised the politicisation of Saturday's WBA lightweight title fight between Dingaan Thobela and champion Tony Lopez

Political moves by the Anti-Bophuthatswana Campaign to have the fight moved may have had a negative effect on Thobela's concentration on the fight, he said

The coalition, which includes the ANC and the SA National Civic Organisation, this week withdrew a demand that the fight be moved from Sun City to a venue in SA.

But while the ANC this week wished Thobela a successful fight, noting his support for the "struggle of the people of Bophuthatswana", the campaigners vowed to go ahead with placard protests along the route to the Sun City resort on Saturday

"I am very disappointed to see sport is once again being mixed with politics It must have disturbed Dingaan, he wouldn't be human if it didn't," Blewett said.

Lopez had almost lost to Thobela in their last encounter because he was distracted by the prospect of a rematch with Brian Mitchell. This time it could easily be Thobela who is the one who could be distracted.

Sun City matchmaker Leonard Neil, however, said the furore over the venue would have little effect on Thobela as he had been "kept away from it" by tight security.

Thobela had held one brief meeting with campaign officials and this had been positive, he said.

The ANC had initially requested that SA's first WBC championship fight, between Jan Bergman and Victor Baranov on the undercard, not take place at Sun City, he added

Neil said the rematch would be difficult for Thobela "We saw the best of Thobela in the first fight, but not the best of Lopez."

# PAC chant for bomb trialists

DIRK VAN EEDEN

CRIES OF "one settler, one bullet" rang out in a Johannesburg regional courtroom yesterday as two of the three alleged Rockey Street bombers were led to the cells.

The three are accused of attempting to bomb Rockafellas restaurant in Rockey Street, Johannesburg, last month.

The trial was postponed because the third accused, Phila Martin Dolo of Uitenhage, was in No 1 Military Hospital, Voortrekkerhoogte, where his hand had been amputated as a result of bullet wounds sustained during his arrest.

The other two accused are Patrick Muchindu of Soweto and Godfrey Mathebula of Mandela Squatter Camp. A fourth accused, Louis Moosa, was released after a brief appearance three weeks ago.

The public gallery was packed with PAC supporters yesterday who chanted the slogan in response to the accused as they were led into the well of the court.

The case was postponed to July 6 when an application for bail will be filed. Neither of the accused was asked to plead.

# Witness refuses to answer questions on Biko's death

PORT ELIZABETH — A former head of the Port Elizabeth security branch head, Col Harold Snyman, yesterday on Wednesday refused yesterday to disclose any information relating to black consciousness leader Steve Biko on the grounds that it might incriminate him.

During cross-examination by George Bizos, senior counsel for the families of four murdered Cradock community leaders, Snyman refused to disclose whether he had led the police team which had interrogated Biko.

Biko died in September 1977, shortly after being interrogated by the Port Elizabeth security police. Snyman was stationed at this branch at the time.

Said Bizos "Are you saying that if you give honest answers to questions I put to you regarding Biko, it will incriminate you?"

Snyman. "Yes".

He also refused to answer questions concerning information he had passed on to then Police Minister Jimmy Kruger to the effect that Biko had died after going on a hunger strike.

Snyman was head of the Port Elizabeth security branch in 1985 when Cradock activists Matthew Goniwe, Sparrow Mkonto, Fort Calata and Sicelo Mhlawuli were murdered and their bodies were dumped in the vicinity of Blue Water Bay outside the city.

He confirmed yesterday that he was strongly opposed to the reappointment of Goniwe as a teacher at the local Cradock school as well as proposals that he be transferred to Graaff-Reinet.

Snyman was unable to answer many questions by Bizos on incidents in 1985 because he claimed he was an old man and could not remember much of what had happened eight years ago

The hearing continues today. — Sapa

# News in brief

## Benny Alexander fined

PAN AFRICANIST Congress general secretary Mr Benny Alexander was yesterday fined R1 500 in the Johannesburg Magistrate's Court after being found guilty of contravening the Road Traffic Act.

Alexander was also found guilty of failing to return a false driver's licence to the Traffic Department within 21 days He was given a four-year suspended sentence but was acquitted on two charges of fraud and forgery

## Veteran journalist dies

VETERAN journalist John Dunn died of cancer in the Johannesburg Hospital yesterday morning He was 61

At the time of his death he was a sub-editor at *Drum* magazine He previously worked for *The Star, Sunday Times* and *The Citizen*

## Money for returnees

THE National Co-ordinating Committee for the Repatriation of Exiles has appealed to the returnees whose voluntary repatriation application form numbers are listed below, to report to the Smal Street, Johannesburg, branch of Nedbank to collect their money In Rustenburg collect from Nedbank

The VRAF numbers are 066683, 068987, 080661, 081141, 122026, 091044, 091046, 091135, 091137, 100434, 100831, 104282, 120287 (all in Johannesburg) The numbers in Rustenburg are 080333 and 080447

## Suspect fit to stand trial

JOHN Beck, the man who allegedly plotted to assassinate SA Communist Party national chairman Mr Joe Slovo, was yesterday declared fit in the Johannesburg Magistrate's Court to stand trial

Beck (38) underwent 30 days' mental observation at Weskoppies Hospital State psychiatrist Dr PM Joubert stated that Beck suffered from psychological disorders but these did not prevent him from appreciating the wrongfulness of his actions at the time of the alleged crime or from understanding proceedings during a trial His case was postponed to July 19 — *Sowetan Correspondents and Sapa*

# Sanlam: Anger over acquittals

(252)

Sowetan 25/6/93

**Sowetan Reporters**

THERE was widespread anger yesterday over the acquittal on Wednesday of two white insurance agents on charges of murder and fraud in a case involving the death of five blacks and the injury of eight others

"The judgment is outrageous and induces a sense of shock in that the finding is inconsistent with the facts," African National Congress legal adviser Mr Mathew Phosa said in reaction to the judgment

He said Mr Justice TT Spoelstra had "terribly misdirected himself" and therefore justice was not done

"Since it is black lives involved there is a nonchalant attitude. If the victims were white the State machinery would have acted differently," Phosa said

Mr Benny Ntoele of the Pan Africanist Congress said the judgment had come as no surprise because of the racism permeating South African society — including the judiciary

The Azanian People's Organisation described the acquittal as "mystifying"

Azapo's publicity secretary Dr Gomolemo Mokae said the organisation could not understand why the two men should be acquitted when in an "unusual set of circumstances, they took out insurance on their new employees and made themselves beneficiaries"

"No sooner was this insurance taken out than the five employees died in bizarre circumstances. Whereas the two gentlemen are on the threshhold of wealth, the deceased's kin remain destitute," he said.

The victims' relatives are also shocked

The mother of Mr John Ngobeni (27), one of the victims, yesterday told of her heartache over the court ruling "I saw on television that the men had been freed. The extent of anger cannot be described John was my second child and he was our breadwinner," said Mrs Anna Ngobeni

# 'Sex equality' bill is diluted

(252)

CT 25/6/93

Political Staff

GOVERNMENT proposals for the legal equality of men and women have been watered down, with key elements being withdrawn from a bill tabled yesterday

The first draft, released in February, provided for joint guardianship over children by parents and for the removal of provisions that allow the Defence Force to dismiss women who become pregnant

## Woman boxers

The new draft bill, now called the Promotion of Equality Between Men and Women Bill, also omits a clause that would eliminate the marital power of husbands over women in the Natal Code for black people

The proposal to scrap the ban on women becoming professional boxers and wrestlers has also been dropped

The original Abolition of Discrimination Against Women Draft Bill was released in February by the Minister of Justice, Mr Kobie Coetsee, for comment

## Some key provisions dropped

Although he said then that he hoped all three women's rights bills would be submitted to Parliament this year, two are still being considered by the Joint Committee on Justice and the third has still to be tabled

The original bill provided for both parents of children born during a marriage to have guardianship and custody

At present, husbands hold guardianship, and usually retain it after divorce, but the provision for guardianship to be held jointly has been dropped in the new the bill

The original bill proposed the deletion of provisions in the Defence Act for the dismissal of women if they fell pregnant, regardless of whether they were married or not, but this clause also is not in the new bill

The first draft proposed the scrapping of the marital power in the Natal Code that puts black women in the legal position of minors, but this clause is not in the new bill

The original bill removed the ban on women becoming professional boxers and wrestlers, but the new bill does not

The Department of Justice said the object of the new bill was to promote equality between men and women

## This year

It also said the bill provided for the removal of the remaining vestiges of the husband's martial power

Senior Justice Department officials are confident the women's rights bills will be passed later this year

Opposition groups say the government is using its apparent support for women's rights to promote the image of the National Party, and that it is not serious about the bills becoming law

REPUBLIC OF SOUTH AFRICA

REPUBLIEK VAN SUID-AFRIKA

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## GOVERNMENT NOTICE

### DEPARTMENT OF JUSTICE

**No. R. 1134** (252) **25 June 1993**

MAGISTRATES' COURTS AMENDMENT OF THE RULES OF COURT

The Rules Board for Courts of Law has, under section 6 of the Rules Board for Courts of Law Act, 1985 (Act No 107 of 1985), with the approval of the Minister of Justice, made the rules in the Schedule

### SCHEDULE

**Definitions**

**1.** In this Schedule "the Rules" means the rules published under Government Notice No R 1108 of 21 June 1968, as amended by Government Notices Nos R 3002 of 25 July 1969, R 490 of 26 March 1970, R 947 of 2 June 1972, R 1115 of 28 June 1974, R 1285 of 19 July 1974, R 689 of 23 April 1976, R 261 of 25 February 1977, R 2221 of 28 October 1977, R 327 of 24 February 1978, R 2222 of 10 November 1978, R 1449 of 29 June 1979, R 1314 of 27 June 1980, R 1800 of 28 August 1981, R 1139 of 11 June 1982, R 1689 of 29 July 1983, R 1946 of 9 September 1983, 1338 of 29 June 1984, R 1994 of 7 September 1984, R 2083 of 21 September 1984, R 391 of 7 March 1986, R 2165 of 2 October 1987, R 1451 of 22 July 1988, R 1765 of 26 August 1988, R 211 of 10 February 1989, R 607 of 31 March 1989, R 2629 of 1 December 1989, R 186 of 2 February 1990, R 1887 of 8 August 1990, R 1928 of 10 August 1990, R 1967 of 17 August 1990, R 1261 of 30 May 1991, R 2407 of 27 September 1991, R 2409 of 30 September 1991, R 405 of 7 February 1992, R 1510 of 29 May 1992, R 1882 of 3 July 1992, R 871 of 21 May 1993 and R 959 of 28 May 1993

## GOEWERMENTSKENNISGEWING

### DEPARTEMENT VAN JUSTISIE

**No. R. 1134** **25 Junie 1993**

LANDDROSHOWE WYSIGING VAN DIE REELS VAN DIE HOF

Die Reelsraad vir Geregshowe het kragtens artikel 6 van die Wet op die Reelsraad vir Geregshowe, 1985 (Wet No 107 van 1985), met die goedkeuring van die Minister van Justisie, die reels in die Bylae gemaak

### BYLAE

**Woordomskrywing**

**1.** In hierdie Bylae beteken "die Reels" die reels afgekondig by Goewermentskennisgewing No R 1108 van 21 Junie 1968, soos gewysig by Goewermentskennisgewings Nos R 3002 van 25 Julie 1969, R 490 van 26 Maart 1970, R 947 van 2 Junie 1972, R 1115 van 28 Junie 1974, R 1285 van 19 Julie 1974, R 689 van 23 April 1976, R 261 van 25 Februarie 1977, R 2221 van 28 Oktober 1977, R 327 van 24 Februarie 1978, R 2222 van 10 November 1978, R 1449 van 29 Junie 1979, R 1314 van 27 Junie 1980, R 1800 van 28 Augustus 1981, R 1139 van 11 Junie 1982, R 1689 van 29 Julie 1983, R 1946 van 9 September 1983, 1338 van 29 Junie 1984, R 1994 van 7 September 1984, R 2083 van 21 September 1984, R 391 van 7 Maart 1986, R 2165 van 2 Oktober 1987, R 1451 van 22 Julie 1988, R 1765 van 26 Augustus 1988, R 211 van 10 Februarie 1989, R 607 van 31 Maart 1989, R 2629 van 1 Desember 1989, R 186 van 2 Februarie 1990, R 1887 van 8 Augustus 1990, R 1928 van 10 Augustus 1990, R 1967 van 17 Augustus 1990, R 1261 van 30 Mei 1991, R 2407 van 27 September 1991, R 2409 van 30 September 1991, R 405 van 7 Februarie 1992, R 1510 van 29 Mei 1992, R 1882 van 3 Julie 1992, R 871 van 21 Mei 1993 en R 959 van 28 Mei 1993

**Amendment of rule 30 of the Rules**

**2.** Rule 30 of the Rules is hereby amended—

(a) by the substitution in paragraph (a) of subrule (7) for the expression "R4,00" of the expression "R5,00", and

(b) by the substitution in paragraphs (a) and (b) of subrule (9) for the expression "50c" of the expression "65c"

**Amendment of rule 66 of the Rules**

**3.** Rule 66 of the Rules is hereby amended—

(a) by the substitution in paragraph (a) of subrule (4) for the expression "R4,00" of the expression "R5,00", and

(b) by the substitution in paragraphs (a) and (b) of subrule (7) for the expression "50c" of the expression "65c"

**Commencement**

**4.** These rules shall come into operation on **26 July 1993.**

**Wysiging van reël 30 van die Reëls**

**2.** Reel 30 van die Reels word hierby gewysig—

(a) deur in paragraaf (a) van subreel (7) die uitdrukking "R4,00" deur die uitdrukking "R5,00" te vervang, en

(b) deur in paragrawe (a) en (b) van subreel (9) die uitdrukking "50c" deur die uitdrukking "65c" te vervang

**Wysiging van reël 66 van die Reëls**

**3.** Reel 66 van die Reels word hierby gewysig—

(a) deur in paragraaf (a) van subreel (4) die uitdrukking "R4,00" deur die uitdrukking "R5,00" te vervang, en

(b) deur in paragrawe (a) en (b) van subreel (7) die uitdrukking "50c" deur die uitdrukking "65c" te vervang

**Inwerkingtreding**

**4.** Hierdie reels tree op **26 Julie 1993** in werking

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## INHOUD



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DEATH SENTENCE FM 25/6/93

# Hanging in there

(252)

**Parliament duly** voted in favour of lifting the moratorium on the death penalty by 125 votes to 55 after a six-hour debate, described

cont



 FM 25/6/93 (252)

by the DP's Tony Leon as a "charade" and the ANC's Dave Dalling as "politicking with the lives of condemned people."

Theoretically, the vote means that the 51 people on death row who have exhausted all avenues of appeal will now go to the gallows But that is not going to happen. Justice Minister Kobie Coetsee made it clear at the start of the debate (to cries of *foefie* from the DP benches) that there would be no lifting of the moratorium that has been in place since November 1989.

There would be consultation "elsewhere," including with "interested parties outside parliament," he said This was crude code for saying that government cannot resume executions unless the ANC agrees.

Coetsee's opening statement effectively made the debate meaningless It became a hollow exercise, at best a chance for the NP to demonstrate that it is determined to take a tough stand on lawlessness and violence. That was argued by Dalling, who said the debate was no more than a "desperate part of the NP campaign to shore up its crumbling support base." Dalling noted that only 7% of those on death row are white — and that each of the people hanged in the past or awaiting execution had been sentenced to death by a white judge.

Stating the NP's case was Justice Standing Committee chairman Ray Radue — the local MP who was injured in the attack on the King William's Town Golf Club in December, which left three people dead Radue said the NP believed the death penalty to be morally and legally correct as it "carries out the State's duty to protect the interests and lives of its citizens. This is more than true in the light of the climate of extreme violence in the country."

Coetsee's effective reduction of the debate to an academic exercise destroyed any intensity it might have had Despite the seriousness of the subject, the Speaker had to call the House to order several times.

Perhaps the most significant aspect of the debate was that, with MPs from the ANC, Inkatha Freedom Party and DP voting against the resumption of hangings, the NP was in a sense outvoted

In the past, extraparliamentary pressure would not have meant much to the Nats. But a lame-duck government now knows only too well the penalty for unilateral actions which go against the wishes of the majority, enfranchised or not ■

# 'Desire to suppress info on Goniwe'

Star 25/6/93.

By Helen Grange

PORT ELIZABETH — The reason there was no security police information on Matthew Goniwe's movements on the day he went missing was because they had a "deep-seated motive" to keep such information silent, the Goniwe inquest was told yesterday.

Anton Mostert, SC, for the SADF, put this to former Port Elizabeth security chief Colonel Harald Snyman who left the witness stand yesterday after two days of cross-examination

The inquest was afterwards adjourned to August 11.

Mostert said there was a definite break in security police information about Goniwe's movements on the day he was murdered, June 27 1985

"We know the security police knew Goniwe's movements in Port Elizabeth during the last hours of his life, yet there is not one word (in statements before the court concerning the monitoring of Goniwe) to this effect"

"I don't know if every movement was monitored," replied Snyman.

Earlier, George Bizos, SC, for the Goniwe family, questioned Snyman about false number plates which were found on Goniwe's burnt-out car near the murder scene and later traced to a vehicle often parked outside the Sanlam building — headquarters of Port Elizabeth's security police

Snyman said he was not in a position to say if the number plate CB10627 was a false one used by the security police. (It has been established that the plates were false plates registered to a scrapped vehicle)

Bizos said that on at least eight occasions before Goniwe's murder, tickets were issued to a vehicle with these plates because it was illegally parked outside the Sanlam building. Each time, the fines were withdrawn by the State prosecutor

Asked whether policemen could have traffic fines withdrawn, Snyman said this could be done only if the vehicle were an official police vehicle

Bizos "So, if it's accepted that these fines were withdrawn, can we take it that this car was an official police vehicle"?

"I can't say That can be correct," replied Snyman

Snyman said he did not know whether the security police were using false number plates, as no one had ever applied to him to use them

"If false number plates were used, would it have come to your attention?" asked Bizos.

After saying it had never come to his attention, Snyman said it was possible his deputy, a Colonel van Rensburg, could have approved the use of the plates.

Mr Justice Zietsman "Would that have been irregular?"

"Yes," replied Snyman

"What would you have done if you had found out about such an irregularity?"

"I would have told Colonel van Rensburg to inform me in future," said Snyman

The judge told Snyman he was giving the impression that a lot of activity was going on in the Security Branch for which Snyman was not taking responsibility

Snyman, testifying on the military signal of June 7 1985 requesting the "permanent removal from society" of Goniwe, said this could have been interpreted as detention, which was what the former Joint Management Committee felt should be done about Goniwe at the time

But he regarded the use of the word "permanent", as wrong in view of the fact that detention was never permanent

Glen Goosen, appearing for former SADF officer Colonel Lourens du Plessis, put it to Snyman that the meaning of the signal was to "kill"

"That wasn't what was said at the (committee) meeting (on June 7)," replied Snyman to a guffaw from Bizos

The hearing continues

# Amnesty derides rights talks

Guardian/W in W/Mail

**Ian Traynor in Vienna** 25/6-1/7/93

THE head of Amnesty International has denounced the biggest international conference on human rights in decades as a hugely expensive waste of time and money. Western officials, however, claimed the issues of justice, decency and rights were being pushed up the global agenda

Pierre Sane, the Senegalese secretary-general of Amnesty, said the current Vienna meeting would do little more than reaffirm United Nations human rights declarations of 1948

"They have spent time, energy, money to reopen issues that were closed 50 years ago. It's a sham," Mr Sane said "This is a total flop"

The two-week UN World Conference on Human Rights, bringing together 160 countries and more than 1,000 pressure groups from all over the world, was three years in the making and opened here a week ago

It ends this week with the expected adoption of a declaration that is to sum up the achievements of the conference and set the agenda for international action on rights and liberties

Mr Sane accused the delegates of fiddling at taxpayers' expense while many parts of the world burned, likening the eruption of local conflicts fuelled by nationalism and territorial claims to the run-up to the second world war

# Old skeletons uncovered at Goniwe inquest

W/Mail 25/6 - 1/7/93.

(252)

*The security police emerged as the prime suspects in a wide range of unsolved political killings at the Goniwe inquest this week.*

**LOUISE FLANAGAN** *reports*

THE scope of the reopened Goniwe inquest widened this week as lawyers raised questions about several more high-profile political murders

On Wednesday, there was drama in court as a senior security policeman refused to answer questions about the death of Steve Biko as it might incriminate him

Speculation is now that there are hard links which may yet be exposed between a wide variety of previously unsolved political killings, and that one grouping may have been responsible for many of them.

Prime suspects are the security police, particularly those with a background in the now-disbanded police counter-insurgency unit Koevoet and the police's Vlakplaas hit squad.

The side-show of conflict within the security forces continued, with South African Defence Force counsel Anton Mostert introducing all the new cases, and hammering a succession of security policemen who took the stand.

Although Mostert has accused police of involvement in some of these murders, and hinted at it in others, he has not yet produced evidence

This week Mostert referred to the May 1985 disappearance of the "Pebco three", Port Elizabeth Black Civic Organisation (Pebco) activists Sipho Hashe, Champion Galela and Qaqawuli Godolozi, who vanished weeks before the Goniwe murders and still have not been found.

Mostert said that two decomposing, bound and burnt bodies were found on June 16 outside Port Elizabeth, very near the spot where the Goniwe victims were found. He speculated that they were two of the Pebco three and, while stopping short of accusing police of killing them, suggested police copied this method for the Goniwe murders.

The discovery of these two bodies is not new information, but no link with the Pebco three has ever been shown

Then Mostert accused police of involvement in Durban activist Victoria Mxenge's murder Mxenge addressed Goniwe's funeral and 10 days later, on August 1, was herself murdered by unknown killers in Durban.

Police captain Dirk Coetzee previously claimed that Mxenge's husband, Griffiths, was murdered in 1981 by Vlakplaas members.

Last week Mostert accused the police of killing four of their own colleagues in a limpet mine blast in December 1989 in an attempt to stop informants talking about police involvement in the Goniwe killings.

Former Koevoet member and 1985 Cradock security police chief Colonel Eric Winter and 1985 Port Elizabeth regional security police chief Colonel Harold Snyman both gave evidence this week and denied police involvement in the murders

Snyman was named in the inquest into Biko's September 1977 death in detention as the policeman who had led the interrogation team. He refused to answer questions on the issue this week, on the grounds that he would incriminate himself.

Like previous witnesses, Winter and Snyman repeatedly said they could not remember things According to Mostert, Winter replied "I can't remember" at least 135 times.

Snyman did, however, recall that Goniwe's file — allegedly destroyed in mid-1990 — contained information on his involvement in illegal underground activities. Snyman is the first security force officer to acknowledge that he knew of Goniwe's involvement in such activities. Lawyers have been pushing for such admissions, as they would indicate a possible murder motive.

The inquest ends today and resumes on August 11, when policeman Major Deon Nieuwoudt is expected to take the stand to answer allegations that he was involved in the December 1989 limpet blast murders of police. — Ecna

# 'Bill restricts labour's hard-earned rights'

(252)

W/Mail 25/6 - 1/7/93

By FERIAL HAFFAJEE

THE Congress of South African Trade Unions has made a hard-hitting submission against a proposed interim Bill of Rights drawn up by the Multi-Party Negotiating Process.

The federation believes the document is fundamentally flawed and, if passed, could weaken the body of existing worker rights the labour movement has fought to entrench and also hamper efforts at reconstruction.

It could also limit "the levelling of the playing fields" by creating the space for employers and the state to challenge, for example, affirmative action programmes and land reform.

Cosatu has threatened a march on the World Trade Centre and will call an urgent meeting with its alliance partners, the African National Congress and the South African Communist Party to discuss the Bill.

The labour federation's submissions to the Technical Committee on Fundamental Human Rights during transition have been instrumental in the redrafting of the proposed Bill for the fifth time.

Cosatu also raised doubts about the legitimacy of such a technical committee to draw up an effective Bill of Rights. The federation insists that the committee went well beyond its mandate to draw up an interim schedule of rights to aid free and fair elections.

"Cosatu is most concerned that what should have been a simple exercise of selecting those rights that are necessary to ensure a successful transition ... has developed into a large-scale usurpation of the work of the constitution making body

"Proposals in at least nine areas seek, through the back door, to limit our right to trade union organisation, to strike in defence of our interests, to conclude collective agreements, to bargain centrally, and to address gender and racial inequalities in our society."

After labour's submissions, the right to strike and organise have now been included.

Cosatu also suggested that either a general or a specific rider be added to the Bill where proposed rights may be used against trade unions. This would read: "The provisions of any statute to promote orderly and equitable collective bargaining and the regulation of industrial action shall not be affected by the provisions of this Bill."

Another option is to specifically exclude certain actions at the relevant points in the Bill, though the technical committee says this would harm the clarity and simplicity it attempted to entrench in the draft Bill.

The federation is concerned that freedom of association should not mean that management can pull out of industrial councils and other recognised bargaining structures; that the right to privacy should not restrict a trade union's access to company information during negotiations; that the right to engage in economic activity should not dilute health and safety provisions or trade restrictions and the right to property should not mean that trade unions are not allowed access to workers.

The right of access to the courts should not enable any party to tamper with agreements and commitments being hammered out at the National Manpower Commission and the National Economic Forum.

The non-discrimination clause could work against affirmative action and other programmes aimed at redressing discrimination.

"It is essential again to qualify this clause in such a manner that non-discrimination is not used as a means to perpetuate discrimination."

Cosatu's submissions were equally vocal on the draft charter's provisions for a state of emergency, detention without trial and its silence on land redistribution.

An earlier draft Bill of Rights included a draconian clause suspending trade union association and collective bargaining during a state of emergency. "Even under the notorious Public Safety Act, the state president could not publish emergency regulations in respect of labour relations," the federation's lawyers said.

The offending clause has been removed, though the federation last week said it remained opposed to any detention without trial. (The draft Bill of Rights provides for detention without trial under a state of emergency.)

The federation's assistant general secretary, Sam Shilowa, said its manifold problems with the Bill of Rights did not mean it would reassess its stance on staying out of negotiations and making submissions through its alliance partners.

Cosatu's lengthy submission on the proposed Bill of Rights is a foretaste of what the federation views as its role in a new government, according to a source. "We want to retain our independence as a labour movement and see ourselves as an organisation representing civil society."

The message is clear from the Hani faction of the crowd outside the courts Photo: LUANNE CADD

# World watches Courtroom 4E

W/Mail 25/6-1/7/93. (252)

By STEPHEN LAUFER

IT was a morning of colourful clothing and inimical cultures, of red judges' robes and crimson communist banners, black advocates' garb and khaki for the brylcreem-and-nicotine-fingers brigade from the West Rand.

South African Communist Party chairman Joe Slovo joked that "we could have a bilateral meeting with the Afrikaner Weerstandsbeweging right here in the public gallery", on this, the first day of the murder and conspiracy trial against Chris Hani's alleged killers.

At the end of the session, *tannies* in crimplene frocks queued eagerly to shake Clive Derby-Lewis' right hand, or to whisper words of encouragement into Janus Waluz's left ear. Wrinkle-faced men with striped wash-and-wear ties sent straight-armed waves to Gaye Derby-Lewis, herself eager for every opportunity to look round at friends and supporters in the public gallery.

As the three went down to the cells, Clive Derby-Lewis told reporters he felt "very good", gave a thumbs-up. His broad grin indicated that he meant it. Walus said the same thing, but his losing battle to muster even a small smile told a different story.

As is often the case, the rightwingers had been the early birds. Bussed in from Roodepoort under the leadership of Conservative Party MP Jurg Prinsloo, they'd already occupied almost all the seats when Slovo and African National Congress deputy president Walter Sisulu arrived.

TV cameras from around the world rolling, the SACP chief had the massive wooden doors of the Rand Supreme Court unceremoniously slammed in his face. It took all the persuasive talents of ANC legal adviser Matthew Phosa to have space made available for him, Sisulu, Cosatu's Jay Naidoo and Hani's close friend, Tokyo Sexwale.

The handshakes and greetings on the way to Courtroom 4E for the leftist leadership from security policemen and state advocates were a sight to behold, and even Witwatersrand attorney general Klaus von Lieres und Wilkau seemed to have little difficulty with the three-point comrade's handshake pressed upon him by Phosa.

Ultimately, it was a morning of measured legal argument among "learned friends", the defence arguing for postponement, the prosecution convinced that it was in the national interest to proceed forthwith.

Judge President CF Eloff granted a remand until October 4, when a roll call of more than 50 witnesses will begin.

By then, the Derby-Lewises should have been able to raise sufficient finance to cover legal costs, possibly by selling their house Their CP friends, it seems, are struggling to raise the several hundred thousand rands it's going to take

# Goldstone's punch falls short

*Despite strong evidence, a report by the Goldstone Commission reserves judgment on the involvement of the security forces in a 'third force'*

*By* **STEPHEN LAUFER**

THE Goldstone Commission has issued a major report on security force involvement in violence reaching back to 1986, confirming a series of exposures first carried in *The Weekly Mail* last year

But despite strong evidence, the 40-page report — sent to President FW de Klerk at the beginning of June and released by his office only on Wednesday — stops short of confirming the systematic establishment of a "third force" by kwaZulu Police (KZP), Military Intelligence and certain South African Police units.

The report includes the following findings on the creation and training of an Inkatha squad by the South African Defence Force

●200 young Inkatha members were trained by the South African Defence Force in the Caprivi strip in 1986

●The project was funded by the SADF's Department of Military Intelligence (DMI) out of a secret defence budget account.

●DMI continued to pick up the salary tab for the 200 men until June 1989, when they were formally incorporated into the KZP

●The men were recruited by MZ Khumalo, at the time personal assistant to kwaZulu chief minister Mangosuthu Buthelezi

●Buthelezi, also minister of police at the time, was aware they were being trained by the SADF

●Recruits were trained in the use of AK47, G3 and Uzi automatic weapons, Tokarev pistols and RPG7 rocket launchers They were instructed in urban guerrilla warfare, including the demolition of buildings and attacks with handgrenades and smoke devices

●A "Mr Anthony" taught them how to interrogate captured persons using both violent and aggressive methods and gentle or protective approaches They were taught surveillance techniques and how to abduct people

●Lectures were given on the African National Congress as the enemy of Inkatha and the kwaZulu government.

In criticising the manner in which the SADF and the KZP responded to allegations by former Caprivi strip trainees, the Goldstone report inadvertently points to weaknesses in the commission's own investigation

Judge Goldstone calls "the inability of the KZP to produce a single file concerning the training or subsequent deployment of the trainees" and the "inability of the SADF to produce a single document concerning the training of or subsequent financial support" for the trainees "particularly unsatisfactory" But he does not say why the commission did not use its authority to seize the relevant documentation

This would have been crucial because the commission accepted claims by the KZP and the South African security forces that the vast majority of the trainees had been idle ever since returning from the Caprivi

As a result, the commission failed to establish a direct link between the training of the 200 Inkatha men in the Caprivi with an upsurge of violence in places as far apart as Howick, Pietermaritzburg and Ermelo in the eastern Transvaal — despite evidence that members of the unit had been in all of those places immediately prior to or during bloody conflicts.

Says the commission report "Although certain Caprivi trainees may be involved in some current acts of violence there is no evidence to suggest that such involvement was a direct result of the training they received in the Caprivi " This finding appears to disregard several detailed submissions to the commission during its 32 days of hearings in Cape Town and Pretoria between February and September last year

For one, evidence was given by Caprivi trainee Vela Mchunu that he was hidden by KZP captain Langeni at the back of MZ Khumalo's shop after a magistrate's finding that he had been involved in the murder of three ANC-aligned trade unionists in Howick. He also said that he was later hidden by the Caprivi group's "commissar", Daluxolo Luthuli

The Goldstone commission boils this down to "Vela Mchunu one of the trainees testified that he was involved in certain acts of violence" And the report comments it "can however not find that he committed those acts as a direct consequence of his training at the Caprivi"

Relying on the statement of a "Mr C", the commission finds "there is no evidence at all to suggest that the SADF provided the training for the purpose of hit squads being established."

No mention is made of Kombis bought for the use of people allegedly doing nothing, nor of several detailed submissions by Mchunu and others He told the commission of deployment of the group by Luthuli, who would take recruits to Ulundi to be paid and who picked him up in Hammarsdale in Natal, a violence-torn area, whenever "he needed me"

Luthuli on several occasions assembled a group of Caprivi graduates in Hammarsdale and gave them instructions. The instructions were confidential, each receiving his orders without the others hearing.

Apparently not wanting to let the security forces off the hook completely, the commission suggests that perceptions of their involvement in the systematic generation of violence in recent years are not entirely unfounded "The nature of some of the training, the secrecy of the project, the lack of candour when the truth began to emerge and the connection of trainees with acts of public violence, all continue to fuel the perception that the SADF was assisting KZP and IFP leaders build a private hit squad facility for use against the UDF and later the ANC."

Turning to the link between some Caprivi graduates and violence by a gang calling itself the Black Cats in the eastern Transvaal township of Wesselton, near Ermelo — first reported by *The Weekly Mail* — the Goldstone report finds that

●The Black Cats were a criminal group involved in the violence in Wesselton who became members of Inkatha.

●They received training in kwaZulu after their homes were burnt.

●There was no evidence that MI was involved in their training

●Members of the KZP, trained in the Caprivi, visited the Black Cats in Wesselton, but it was not established that they were involved in any criminal activities themselves during these visits

●Members of the Black Cats bombed the house of a human rights lawyer in Wesselton

●Statements directly implicating gunmen from kwaZulu as having been responsible for opening fire in August 1990 on mourners at the funeral of an ANC member killed by the Black Cats were left out of SAP dockets handed to the prosecutor

Once again, the commission is equivocal in its findings regarding security force connivance in the spiralling violence And it scrupulously avoids the conclusion that the kwaZulu links of the Black Cats could indicate the existence of a strategy of violence generation in-volving Inkatha, the KZP, the SADF and the SAP

But the report does say "there was every justification for the perception by many people that the SAP were working with the 'Black Cats' At best for the SAP, ineffective and inefficient policing created the justifiable perception of such complicity in the minds of many members of the Wesselton community "

Ultimately, the commission's report leaves final judgment on the existence of a state-backed Inkatha/-SADF/SAP third force to others, although it hints at such a force as it expresses concern at "the perceptions which are created by current events viewed against the background of conduct which may have occurred prior to February 2 1990

No better example can be found than the training of the Caprivi trainees and certain criminal conduct committed by them since their return from Caprivi

"Whether there is a direct link or not is irrelevant to the conclusions which many people will draw or the perceptions which will be created "


Two editions of The Weekly Mail that exposed security force involvement in a 'third force'

## Commission praises WM

Weekly Mail Reporter

*THE WEEKLY MAIL* was praised by the Goldstone commission in its latest report on the training of Inkatha members by the SADF in the Caprivi strip.

Under the heading "The Conduct of *The Weekly Mail*", the commission writes: "*The Weekly Mail* was justified in publishing much of the information given to it by Mbongani Khumalo," the former Inkatha youth brigade leader who exposed the Caprivi training of IFP members by South African Military Intelligence.

"The South African public," says the report, "was entitled to be informed for two reasons. In the first place, it was furnished by a senior member of the IFP. In the second place the allegations in themselves were such that there was a public interest in the information "

While hinting at critical differences between the use of English by journalists and jurists, the commission nevertheless praises the newspaper's commitment to press freedom

"*The Weekly Mail* did make some extravagant allegations which went further than was justified by the facts relied upon However, it did not in any way abuse the freedom of the press which is a fundamental right in any democratic society"

# Amnesty's black crusader will not turn a blind eye

B/DAY 25/6/93.

**CHRISTIAN TYLER**

VIENNA last week was witnessing a struggle over the modern meaning of human rights On Tuesday the Dalai Lama was at a meeting arranged by Amnesty International. China had refused to allow the spiritual leader of Tibet to address 5 000 delegates at the biggest UN human rights conference for 25 years

The communist leaders in Beijing, together with the governments of Malaysia, Indonesia, Singapore and other developing countries, are complaining that the West interferes when it imposes its own definition of human rights upon them, that it hampers their trade and weakens their competitiveness

Amnesty International, which fights for prisoners of conscience and victims of torture, is a Western foundation with headquarters in London But its new secretary-general, Pierre Sané, was born and brought up in Dakar, Senegal

I asked him You come from a developing country Do you not sympathise with what these Asian countries say? "Nobody disagrees when some Asian and African countries talk about the right to development and about an unequal economic system," he replied "But even if true, that still doesn't give you the right to torture a political opponent.

"Asians have the right to industrialise but not to crush their own people. To be competitive in the world today, do you have to oppress your people? If their workers say they want an eight-hour day, then those workers should not be tortured or jailed because they are organising to get it."

Do you agree with using trade as a sanction? "No, not really. I don't think you can impose human rights by force from the outside When you impose sanctions you may be punishing people in the country More important, you will plant the idea among them that the solution will come from outside And I think the solution will come from inside"

Sané is an accountant Practising in Senegal would have meant helping state or foreign companies maximise their profits and minimise their tax, he said. "I found morally I could not do it." So he went into development aid, studying at the London School of Economics and Carlton University, Ottawa

He grew up in a Christian household but is not religious, unlike his mother, a teacher, and father, who was a journalist "They gave us these values of equality and justice and the idea you can achieve things peacefully by the force of conviction I cannot stand injustice And I suppose being black and being from a continent that has suffered 400 years of unequal relationship with the world, you grow up with this kind of view. Not all Africans do because they used to sell to the slave trade — and some still oppress their own people."

The fact that you are black could be interpreted as tokenism, I said Why did Amnesty choose you? "There were 1 200 candidates. The committee did not start by wanting a black one The fact that I was black was the icing on the cake" He smiled "But by appointing me Amnesty is sending a message to the Third World about universality, multiculturalism"

Sané wants to broaden Amnesty's analysis of the economic background to human rights violations without diffusing its campaign on behalf of individual victims

His scrutiny will include not only nation states but terrorist groups, multinational companies and institutions like the World Bank and IMF. "We have to change the image of Amnesty as a Western organisation Even if it is Western it is the bearer of universal values."

I referred to the Asian plea of cultural difference and a collective right of development. "But that's not the issue The issue is whether a collective has the right to torture people in their own collective. If you had a culture which practised anthropophagy (cannibalism), and argued 'this is our culture' we will tell them 'even if it's your culture it's not acceptable. So stop it.' "

But are you telling them they cannot employ cheap labour in sweatshops? "I suppose we are telling them that civilised progress makes it unacceptable today to reach the objective of economic development at the expense of human dignity We say: 'You will not repeat history We have to find a new model of development that is centred on man'

"Some governments, even though their economy is modern or modernising, even though their political system is a formal democracy, still consider political dissent an attempt to undermine the government. They continue to behave as if their power is coming from God."

The UN's 1948 Universal Declaration of Human Rights covers not only the right to life, liberty, fair trial and freedom of speech but also a right to work, marry freely, own property, vote in elections, claim social security, join a trade union and get a free primary education. I suggested to Sané that it was Utopian, unrealistic.

"No It's not just an ideal, it's also a yardstick. It is the minimum that makes an individual a real human being. If by 'unrealistic' you mean we don't have the means, then I don't think so. The means exist."

Rights, he says are won through struggle. Some say rights are given to them by God or come from their souls. For others it is the conquest of belief and social struggle.

Who says where the list of rights should end? "I think the list is never finished. Once those are achieved for part or all of humanity we should push it further." He suggested, for example, that the right of asylum for victims of political persecution should eventually be extended to refugees from economic deprivation

The premise is that human rights are not only universal but indivisible and interdependent. I asked Sané what that meant: "It means that you cannot just be free to starve. It means you are entitled to food, that the conditions for making you a human being and not an animal are met. 'Indivisible' means you are not just free from state violence or state interference in your private affairs 'Interdependence' means that to satisfy one you have to have the other If you are poor, you are powerless To move out of poverty you have to have political power."

Amnesty has been a thorn in the side of democracies as well as dictatorships it pursues European states for their treatment of conscientious objectors and refugees, the US for its use of the electric chair.

There are 183 countries in the UN and 110 still torture prisoners, according to Amnesty. I asked Sané whether, worldwide, things were getting better or worse.

"I think better, because of the focus of the media on Bosnia, on Somalia, on Angola.

"Throughout the world there is development of moral consciousness — because of television You see what is going on, you are affected and you want it to stop We forget that the whole of Latin America has come out of the rule of dictatorship. Even in China economic transformation is putting pressure on the political system to open up

"Twenty-five years ago governments could torture in secret, kill in the dark and we would not be informed. Today, with the network of human rights organisations, the presence of the media, any act of state violence is reported throughout the world The governments are exposed, and governments do not like to be exposed, especially when they are breaking their own laws

"Those who are still putting forward arguments of cultural relativism are on the defensive And they are on the defensive because while they are here arguing about it they are forcing it down the throats of their own people The debate is not with us It is with their own people" — Financial Times.

**PARLEY VIEW**

PAC secretary-general Benny Alexander, who appeared in the Johannesburg Magistrate's Court on fraud charges yesterday. Picture ROBERT BOTHA

# Alexander cleared of licence fraud

B/Day 25/6/93

THEO RAWANA

PAC secretary-general Benny Alexander was yesterday acquitted of fraud and forgery charges relating to a false driver's licence — but was found guilty on a lesser charge of carrying the false document.

Alexander was fined R1 500 or six months, suspended for four years.

The Johannesburg Magistrate's Court heard that Alexander possessed a valid driver's licence. However, he had also received another document through the post, which turned out to be a forgery. This was the one he mistakenly carried on November 27 and produced when stopped by a traffic officer.

The document had been issued to a Dudu Mazibuko who had held a Code 11 driver's licence.

Alexander was a holder of a Code 8 licence.

His evidence was that he had received an ID through the post and had noticed that the driver's code was wrong.

Believing that someone had done this to discredit him he had sent a representative to apply for another document on his behalf. He then received the correct ID document.

However, on the day of the incident he had mistakenly taken the wrong one.

Magistrate E van Staden found that Alexander had not been involved in the forgery and also had not intended to falsely represent himself to the officer.

But he said Alexander should have returned the wrong document.

Alexander said after the case the most important thing was that the serious charges of fraud had been dismissed. He would decide with his lawyer whether to appeal or not.

# Police 'had motive to stay silent on Goniwe'

B/Day 25/6/93

PORT ELIZABETH — The security police clearly had a deep-seated motive for remaining silent on Matthew Goniwe's movements on the evening of his death, the judicial inquest into his slaying heard yesterday.

This was submitted by senior counsel for the SA Defence Force, Anton Mostert, who said the Port Elizabeth security branch had been monitoring Goniwe on June 27, 1985, the day he and three other men were stopped en route from Port Elizabeth to Cradock, and brutally murdered.

Former head of the Port Elizabeth security branch Col Harold Snyman denied security police had not volunteered information to the investigative team. He said there had been both communication and co-operation between investigators and the security police after the murders.

But Mike Hodgen from the attorney-general's office said that after making inquiries, he had found out that no one from the security branch had come forward and, on their own initiative, provided any information to the investigating officers.

"If you say so, it must be true," replied Snyman.

Mostert said that either the security police monitors lost track of Goniwe on the evening of June 27 or they followed him until he and the three other activists with him were stopped and killed near Blue Water Bay.

"It is strange then that they have made no statement on the matter. It is after all the (security) police who could make the most valuable contribution regarding what happened in Goniwe's last hours, yet there is not a word about it.

"The fact that there is no such statement forthcoming proves the security police had a deep-seated motive to remain silent on Goniwe's movements on the evening of 27 June."

Snyman refused to comment on this submission. He earlier admitted it was possible that covert activities went on in the security police without his knowledge. — Sapa.

# Civil action possible in minibus case

MARIANNE MERTEN

CIVIL action could be brought against the two former Sanlam insurance agents who were this week acquitted in the Pretoria Supreme Court of murder charges relating to a minibus accident near Witbank in which five men died, legal experts said yesterday.

Johannesburg Legal Resources Centre lawyer Odette Geldenhuys said the survivors of the crash or the dependants of those killed should contact the organisation if they wanted further action taken in the case.

Geldenhuys pointed out that the legal test in a civil claim was based on a balance of probabilities.

This was easier to prove than the "beyond reasonable doubt" test applied in a criminal case.

Isak Kruger and Lucas Loubser were found not guilty on murder, attempted murder and fraud charges on Wednesday after Judge T T Spoelstra said the State had not proven its case beyond reasonable doubt.

# Qualifie
# new bro

THE Independent Broadcasting Authority Bill publicised by negotiators at the World Trade Centre on Wednesday, was yesterday welcomed by media lawyer Wend Wendland, who acts for the National Association of Broadcasters.

But Wendland cautioned that certain provisions of the Bill would cause problems for NAB members, which included M-Net, the SABC and Radio 702, and create confusion over the status of broadcasters in the TBVC states.

He said the Bill proposed to legislate the minimum amount of locally funded and produced programmes broadcast by SA radio and TV stations. Broadcasters currently relied on over-

PAC secretary-general Benny Alexander, who appeared in the Johannesburg Magistrate's Court on fraud charges yesterday. Picture: ROBERT BOTHA

# Alexander cleared of licence fraud

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# Court spares lives of 'living dead'

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ROBIN DREW
Weekend Argus
Africa Service

HARARE — In a landmark judgment the Zimbabwe Supreme Court has spared the lives of four murderers whose execution was stayed hours before the men were due to go to the gallows in March

The court agreed with the Catholic Justice and Peace Commission that the long delay between the passing of the death sentence and the execution of it amounted to inhuman or degrading treatment in violation of the Declaration of Rights in the Constitution

The convicted murderers had been on death row for between four to six years

Chief Justice Mr Justice Gubbay said that death was as lingering if a person spent several years in a death cell as if the mode of execution took an unacceptably long time to kill him

"The pain of mental lingering can be as intense as the agony of physical lingering," he said ARG 26/6/93

The death sentences, passed for brutal murders, were reduced to life imprisonment

The chief justice said it was imperative that the process of hearing appeals against the death sentence and the consideration by the cabinet whether to exercise the prerogative of mercy be speeded up

The misery of life on death row in Harare's Central Prison has been vividly told in the judgment

The prisoners convicted of brutal murders including in one instance the rape and beating to death of a 70-year-old woman had been in the condemned section for periods ranging from four to six years

The "living dead" as the judgment called condemned prisoners are in virtual solitary confinement kept in cells 3,5 metres long by two metres wide with a single window very high up from which only the sky is visible

At 3pm the prisoner is required to leave all clothing outside his cell "Thereupon he is incarcerated, naked, until the following morning The cell is very cold in the winter months," said the judgment

According to affidavits which were not challenged, the death row inmates were taunted by prison officers with impending death by hanging

Chief Justice Mr Justice Gubbay said "From the moment he enters the condemned cell, the prisoner is enmeshed in a dehumanising environment of near hopelessness He is in a place where the sole object is to preserve his life so that he may be executed The condemned prisoner is the 'living dead' "

The landmark judgment held that the delay in carrying out the executions amounted to a contravention of the Constitution which states that no person shall be subjected to torture or to inhuman or degrading punishment

It contained an affidavit by a man who was on death row for three years before he was granted a free pardon under a clemency order to mark the 10th anniversary of independence

The four men whose sentences have been reduced to life imprisonment were to have been hanged in March but the Catholic Commission for Justice and Peace obtained a stay of execution hours before the first man was to go to the gallows

The executions would have been the first in Zimbabwe since 1988

Under sentence of death imposed in 1988 and still awaiting appeal are three South African agents, Kevin Woods, Michael Smith and Philip Conjwayo

ARG. 26/6/92

# Indemnity still under discussion

PRETORIA — The Indemnity Council this week held meetings to discuss issues surrounding the Further Indemnity Act, the African National Congress said.

It could not be established if there were conclusions as an official at the Department of Justice said the matter was a confidential subject

The outcome of the meeting would be presented to the president and the decision of whether to make the report public would be taken by the president or Chief Justice — Sapa

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# Human rights move falls short

S/Times 27/6/93. (252)

**MORE than 160 nations hailed a new declaration on human rights adopted in Vienna this week as a historic document that will give hope to people across the world, but activists said it would do little to end the suffering of millions of abuse victims.**

By STEVE PAGANI in VIENNA

Delegates to the UN World Conference on Human Rights adopted the document on Friday after two weeks of debate overshadowed by the war in Bosnia — less than 400km from Austria's borders

"We leave Vienna with the accomplishment of hope ... and understanding that the commitment has been laid for future progress," conference secretary-general Ibrahima Fall of Senegal told delegates

Despite hours of haggling over the 32-page document, negotiators failed to agree on the most controversial issue of establishing a UN human rights commissioner with the power to report an individual state for violations to the UN Security Council

To save further delay in issuing the final declaration, the conference passed the controversial issue on to the next session of the General Assembly

The idea of a UN High Commissioner for Human Rights was strongly backed by the United States, the European Community and Japan, but developing nations argued that the time was not right

Despite reservations, US chief delegate John Shattuck said the conference had "produced a strong, forward-looking document that reaffirms the universality of human rights and the basic principles my country has stood for"

Killing and continued "ethnic cleansing" in Bosnia hung over the conference like a cloud In a moving speech Bosnian Foreign Minister Haris Silajdzic pricked the conscience of many delegates by describing horrors taking place in his country while nations were extolling progress in human rights

Delegates agreed to send a resolution to the Security Council, and Silajdzic's pleas for action were taken up by Islamic nations who threw the conference into disarray on Thursday by forcing a vote on a special declaration on Bosnia

Most Western nations abstained, unhappy over the call to lift an arms embargo against the Muslim-led government Some delegates said privately they doubted whether any of it would make any difference

to look into World Trade Centre fiasco

# Goldstone to probe siege

Sowetan 28/2/93

STATE President FW de Klerk has requested Mr Justice Richard Goldstone to investigate the rightwing occupation of the multiparty negotiations venue outside Johannesburg on Friday

And police are trying to establish the identities of five uniformed rightwingers who were among those who laid siege to the World Trade Centre on Friday One of those wanted by the police is a blonde woman in her twenties — dressed in camouflage fatigues and brandishing a shotgun (252)

Three of the five wanted persons carried shotguns The police are asking the public to help identify them

ANC president Nelson Mandela had little hope of early arrests of rightwingers who committed crimes during the violent siege

Speaking at a Press conference at Jan Smuts Airport before leaving for Cairo on Saturday night, he said this was his feeling after speaking to De Klerk over the telephone at 11am on Saturday

"What he told me doesn't arouse much hope for immediate arrests "

The ANC leader will be attending an Organisation for African Unity summit meeting which starts in Cairo today

He said he would brief the summit on political developments in the country and give them a vision of the future

Speaking at a news conference at the State Guest House in Waterkloof, Pretoria, De Klerk said "I think it will be good if the actual facts are properly investigated because allegations are made of police negligence and it will be in the interests of the country if we get the true facts, so that we can judge them "

He condemned the rightwing violence as a "despicable occurence" and said the rightwingers responsible would be arrested and charged

Asked what action he considered taking against the rightwing organisations involved, he said the Government did not take action against political movements — *Sapa*

# Goldstone heads mayhem probe

B/Day 28/6/93

THE Goldstone Commission of Inquiry into Public Violence and Intimidation on July 7 would hold a public preliminary inquiry into events surrounding the demonstration by right-wingers at the World Trade Centre on Friday, Judge Richard Goldstone said on Saturday. (252)

The inquiry would concentrate on:

- The planning and organisation of the public gathering and demonstration and the persons and organisations responsible,
- Terms of permission for the demonstration granted by the SAP and local authority;
- The respect in which the terms were transgressed and the persons and organisations responsible,
- The response by the SAP to the planned demonstration and the events which occurred, and
- Recommendations the commission should make on steps to be taken in order to avert a recurrence of such acts of public violence and intimidation as may have taken place.

Goldstone requested any person having information concerning the incident to communicate with the the commission by telephone (012) 320-4640 or fax (012) 320-3812 — Sapa

# Cell death: Three cops in court

Sowetan 28/6/93

THREE Western Transvaal police constables appeared at a special session of the Koster Magistrate's Court in connection with the death of a rape suspect early yesterday morning

Constables MJ Viviers, HJ Bester and MK Sogone were charged with the death in detention of a rape suspect

Western Transvaal police liaison officer Major Hannes Wehrmann said the three policemen had been released on their own recognisance and were warned to appear in court at nine o' clock today

The murder charge stems from the arrest of a man, known only as Tutu, in connection with the alleged rape of a woman in Koster's Reagile township

The detainee apparently lost consciousness during a police interrogation and died in custody on Sunday morning, despite efforts by paramedics to revive him —*Sapa*

# Feeble response to AK-47 campaign

B/Day 28/6/93

ADRIAN HADLAND and THEO RAWANA

PRETORIA — The SAP's campaign to rid SA of AK-47s and other illegal weapons had produced disappointing results so far, a police spokesman said at the weekend.

Almost a month after the campaign was launched, only eight AK-47s, one Uzi and 176 rounds of AK ammunition had been handed in

A police spokesman said yesterday five AK-47s and the Uzi had been handed in in the western Cape, one AK-47 in Natal, another and the rounds of ammunition at Krugersdorp and one at Nelspruit

The launch of the campaign coincided with the implementation last month of the Arms and Ammunition Act of 1993

According to the Act, citizens have been given two months to hand in illegal weapons — including AK-47s, machine pistols, hand grenades, rockets and explosive devices — without fear of prosecution.

Thereafter, from August 1, those caught in possession of weapons stipulated by the Act face a minimum jail sentence of five years and a maximum of 25.

At the launch, police spokesman Gen Leon Mellet said R260 000 had been spent on 8-million stickers, posters and advertisements.

The use of AK-47s in bank robberies, theft, rape and political rivalry was "one of the biggest crises ever to hit SA", Mellet said

Between June 1992 and May this year, 532 people had been killed by AK-47s and 549 had been injured

Police were hopeful that during the coming month more weapons — with up to R6 000 reward money available for each one — would be handed in.

A police spokesman said numerous arrests for possession had taken place in recent weeks, but confirmed that only eight AK-47s had been handed in voluntarily.

No rewards were paid for these weapons as they had been handed in by their owners The offer to pay rewards was intended for information on the firearms only.

# Challenge to will fees law

B/Day 28/6/93

MATTHEW CURTIN

THE Association of Trust Companies is intensifying its lobbying of government to end the monopoly attorneys have on charging fees for drawing up wills and testaments.

Association deputy president and Syfrets GM John Doidge said at the weekend trust companies had the lion's share of the business, drafting about 500 000 wills a year. However, they were proscribed from charging for their services

Section 83 of the Attorneys Administration Act (1979) stipulated only attorneys might charge for the drafting of wills

Doidge said association members — Absa, BoE, First National Bank, Standard Bank, Syfrets and others — were attracting business for the wrong reasons their service was free

The trusts, employing large numbers of staff with legal qualifications, were entitled to recover their costs of the services they provided

His concerns were echoed by Institute of Chartered Accountants spokesman Len Norval, who said there was no good reason why only attorneys should be allowed to charge for wills. Many accountants were called upon to provide the same service when arranging the financial affairs of their clients

Doidge said the Justice Department had called for representations from trust companies and the legal profession after an approach by the association in 1990. The Association of Law Societies (ALS) had opposed a preliminary finding which would have allowed any person possessing the right academic legal qualifications to be admitted as a will-maker.

Members of the Association of Law Societies standing committee charged with representations to government on the issue were not available for comment

ALS director-general Andre van Vuuren said the debate centred on what government regulation was required to ensure unqualified people were not taking work away from attorneys.

The issue had a long history with existing legislation stemming from the time when attorneys were the only people drawing up wills, before the proliferation of trust companies

However, Cape Law Society member Jimmy Yeowart said all qualified people entitled to draw a will should be able to do so and charge for the service.

Banks and trust companies received distorted publicity because their service was so-called free The Cape Law Society voted overwhelmingly in favour of the change at its 1991 annual meeting

Justice department spokesmen contacted would say only the matter was still under investigation

## Golds mayh

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Goldstone requested any person having information concerning the incident to communicate with the the commission by telephone (012) 320-4640 or fax (012) 320-3812. — Sapa.

# Legal Resources Centre names new director

ARG 29/6/93

**The Argus Correspondent**

JOHANNESBURG — Attorney Geoff Budlender, who has worked for the Legal Resources Centre since it opened in 1979, is to succeed Arthur Chaskalson as its director

Mr Chaskalson, who has been honoured by universities, legal bodies and human rights groups at home and abroad, is to retire at the end of August He will continue to manage the LRC Trust

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Mr Budlender, the deputy director, headed the LRC's Johannesburg office for five years

During the 1980s his practice centred on issues such as influx control, citizenship in relation to the homelands, forced removals, land and housing

More recently, he has worked on land and housing in relation to development and has served on specialist committees of multiparty structures, including the National Manpower Commission, the National Housing Committee and the Central Wits Metropolitan Chamber

Star 29/6/93

# Objectors seek trial deferment

Vereeniging Bureau

Two men on charges of refusing to attend military camps applied in the Vanderbijlpark Magistrate's Court yesterday to have their trials postponed pending negotiations for the suspension of trials for politically motivated offences

John William Downie (29) of Cathcart House in Vanderbijlpark and John Kelly (28) of Amethyst Street in Carletonville were not asked to plead when they appeared before magistrates A P Marais and J A C van Staden respectively.

No evidence was led and both hearings were postponed to January 10 next year

In a statement released afterwards, the End Conscription Campaign said Downie and Kelly were the only persons currently facing prosecution for conscription-related offences.

The SADF had dropped charges where individuals had said they would defend themselves.

Star 29/6/93

# Ex-CCB head trial put off

The perjury trial of former Civil Co-operation Bureau (CCB) chairman General Eddie Webb was postponed again in the Johannesburg Magistrate's Court yesterday. Webb's perjury charge arose from his evidence in the David Webster inquest, where he admitted deliberately misleading the Harms Commission of Inquiry on the CCB. — Staff Reporter.

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# Agents' claim 'legal'

Sowetan 29/6/93

**By Mzimkulu Malunga**

A CONTROVERSIAL assurance principle that employers can take out a life policy for their employees, and make themselves beneficiaries, is central to the acquittal of two former Sanlam agents by a Supreme Court judge last week

The acquittal sparked off widespread anger amongst political organisations, with many calling for an independent inquiry into the deaths of five black men near Witbank in January last year

But in terms of a life assurance principle called insurable interest, an employer can take out a life policy for an employee and become a beneficiary as long as the applicant (employer) can prove "employer-employee relationship"

In the Witbank insurance "scam" former Sanlam agents Mr Isak Kruger (31) and Mr Lukas Loubser (27) had employed the victims through JIT Distributors but policy premiums were to come from Cosmic Developers, wholly-owned by Kruger

The five were killed when a minibus driven by Loubser plunged into a ravine

Three survivors of the horror crash claimed handles inside the vehicle had been removed

Loubser had been checking the engine at the rear when the vehicle rolled into the ravine Kruger had followed in another car, claim the survivors

Insurance experts said the former agents could still claim from the policies they took for all 13 of their "employees" which total R1 million

When Kruger applied for the 13 policies he said the men were employed as sales representatives promoting "consumer articles" for JIT Distributors

Sanlam's legal representative for the southern Transvaal, Mr Gerhard Pretorius, said the company would decide whether to honour the policies next week

An official who did not want to be named was adamant there would be no payment to Kruger and Loubser The two had resigned from the company immediately after the "scam" and the policies were not valid and were only a month old when the men died

It takes about three to six weeks for a policy to be confirmed by the insurer, he said

"Due to their resignation we have no business with them whatsoever We do not know where they are and what they are doing," the official said

It is not clear how many days were left, at the time of the "accident", before the second premium payment which Kruger as the applicant on behalf of the 13 "employees" was required to honour

Life Officers Association's executive director Julie Wessels said the judgment had no far-reaching implications for the life assurance industry

He said the two men's case could have been strengthened by insufficient evidence by the prosecution which led to their acquittal on murder charges

According to Wessels, Sanlam would have to prove to the court that the men's dealings had been illegal if it hoped to overturn last week's ruling

"If Sanlam refuses to pay the men can sue the company," he said

"The judgment is outrageous and induces a sense of shock in that the finding is inconsistent with the facts," said ANC's legal adviser Mathew Phosa

He said the judge had "misdirected himself" and justice was not done

Pan Africanist Congress executive committee member Benny Ntoele said the judgment came as no surprise because of racism permeating South African society

Publicity secretary of the Azanian Peoples Organisation, Dr Gomolemo Mokae, described the judgment as "mystifying"

**There was nothing remaining of the kombi after it crashed in flames.**

# Motsuenyane probe will set a precedent for human rights

RAY HARTLEY

(252)

THE human rights die for a future SA will be cast in the coming weeks when the Motsuenyane commission compiles its report on alleged abuses in ANC camps.

Former Nafcoc president Sam Motsuenyane, who chaired the ANC-appointed commission, and fellow commissioners Zimbabwean advocate David Zamchiya and former US judge Margaret Burnham, are faced with an onerous task. They will have to sift through nearly 100 hours of evidence transcribed in more than 2 000 pages of official records to reach a decision

They will have to reach a technical conclusion on the question of whether the ANC adhered to international legal principles governing the detention of people during the conduct of a liberation war. This finding will be based on the implications of the ANC's 1980 adoption of the Geneva convention protocols relevant to national liberation movements and a code of conduct adopted at the 1985 Kabwe conference

But the commission's most difficult task will be to sift through the chilling atrocities alleged to have been committed by ANC military and security officials who abused their positions of power to torture those at their mercy. Witness after witness testified that they had been abused by methods euphemistically known as "pompa", "coffee" and "guava juice"

The moral weight of the conclusions they reach on these matters ultimately depends on the extent to which the commission has legitimacy with that vaguely defined thing called civil society

That the ANC and the commission were conscious of the need for legitimacy was reflected by the way in which hearings were conducted While not a formal extension of official justice, the commission made every effort to reconstruct the atmosphere of a court of law A suite in the FNB stadium was converted into a makeshift courtroom Court officials cried "all rise" as the commissioners entered the room The media were allowed full access to all the hearings and special arrangements were made to allow photographs to be taken during the sessions

The 45 witnesses were led and cross-examined by counsel for the commission and lawyers acting for those accused of abuses This was followed by intensive questioning by the three commissioners

The commission was the first of its kind convened by a national liberation movement to investigate allegations of abuse inside its ranks It was, in many respects, a commission of the future, breaking the mould of previous commissions of inquiry in SA All the commissioners, attorneys and the majority of the witnesses and defendants were black.

And yet it conformed with its predecessors in one crucial repect. those accused of abuses constructed an elaborate wall of denial which was seldom breached. Phrases such as "I don't remember" and "that is not true" flowed freely from commanders and officials of camp 32 — the notorious Quatro detention centre in Angola A typical question and answer session went like this.

Commissioner: Were you aware that X was held in Quatro?

Quatro official: I heard he was there, but I never saw him during my time

Commissioner: X has claimed you tortured him during interrogation.

Quatro official. That is untrue.

Commissioner: Did you ever participate in the beating of an inmate?

Quatro official. I never did, it was against ANC policy

Commissioner Were you ever aware of any beatings while in Quatro?

Quatro official I once heard that a man had been beaten up, but that was before I came to Quatro.

This contrasted with the candid evidence of some ANC officials such as deputy secretary-general Jacob Zuma, who testified that, according to ANC records, a man had been executed and two others beaten to death in the camps

The commissioners are now faced with the task of having to determine the reliability of the evidence of those claiming to have been abused.

Unlike previous inquiries, such as the ANC's internal commissions and the International Freedom Foundation's Douglas commission, the Motsuenyane commission attracted a broad range of witnesses It heard evidence from a range of Quatro officials and former inmates alleging they were abused there

While the Douglas commission produced a detailed account of alleged abuses, it did not hear evidence from the ANC officials named as abusers and there was no effective defence against the allegations

The ANC's two previous commissions failed adequately to hear the evidence of those claiming to have been abused, mainly because they feared retribution or did not wish to become involved in a cover-up

A fourth inquiry, by Amnesty International, relied on secondary evidence and also failed adequately to canvass officials directly implicated in abuses

The Motsuenyane commission will have to achieve what four previous inquiries failed to deliver a verdict with the kind of objective credibility which no party can question Unless this is done, the ghost of human rights violations will haunt the ANC even as it tries to win an election as a liberating force. Perhaps even more distressing, questions will continue to linger over those officials against whom allegations were made

Should the commission fail to name the abusers, laying the basis for ANC president Nelson Mandela to fulfil his promise to remove them from positions of leadership, SA will face the unpleasant prospect of torturers and murderers being granted wider power in a new government

But the significance of the commission's deliberations extends far beyond setting the record straight about events in the past. Their conclusions and the action the ANC takes based on them will establish a framework for the handling of human rights abuses in the future

Whether the commission is equal to this task remains to be seen One thing is certain, the future of human rights in SA demands a credible report and decisive action by the ANC.

From left, commissioners David Zamchiya, Sam Motsuenyane and Margaret Burnham, with a witness and lawyer Siraj Desai in front. Picture ROBERT BOTHA