

PUBLIC SECTOR - GOVT - JUSTICE

1996 - JULY

New salary scale for magistrates

THE Justice Department would implement a new salary structure "without delay" after the Magistrate's Commission said it supported a revision of magistrates' salaries, Justice Minister Dullah Omar said on Saturday.

"The restructured salary scale marks an important step towards

enhancing and demonstrating the independence of the judiciary," Omar said in a statement.

The structure reduced the number of grades from 32 to six and provided for salaries ranging from R40 863 a year to R131 479 a year. Omar said it was the first step in reducing the salary gap between judicial officers in magis-

trate and Supreme Courts

"All serving magistrates and new appointees would be appointed according to the new salary grades on the basis of their level of experience," the statement said.

Where the new structure could not be implemented from July 1, it would take effect retrospectively — *Sapa*

Saweran 1/7/76

(252)

Rage against officials

A GROUND SWELL OF anger is rising out of the Truth Commission hearings in the Eastern Cape against state officials who tortured and killed detainees, and yet still hold positions of power

Their intransigence in engaging lawyers to hide their guilt, rather than approaching the Commission to reveal their abuses, is hardening popular opinion against them

The public is increasingly resentful that taxpayers' money is used to defend certain perpetrators

Testifying at a special hearing in Port Elizabeth last week, witness Mrs Nobantu Mthimkulu said she was disturbed that the policemen allegedly responsible for ordering her son's death used the courts to prevent her from telling his story at earlier hearings

"The Boers are liars. They have been prohibiting me from talking about Siphwo and they have a lot of money (to pay lawyers)," she said

In Umtata Truth Commission witnesses, supported by the crowd, challenged the Government to deal with perpetrators in senior posts

Recently, a Transkei traffic officer was heard bragging that "he had killed Twalimfene and so what", according to Truth Commission witness Mr Zoyisile William Nelani

In March 1976 African National Congress leader Mr Twalimfene Joyi was gunned down and his body dumped in the flooded Bashee River

The traffic officer was charged with the murder but released within days on instructions from Chief KD Matanzima. He was promoted and put in charge of an Engcobo office.

"Murderers are not supposed to be given high rank," Nelani said to applause from people in the auditorium

'Terrorists' killed

Eastern Cape parliamentarian Ms Ntombizonke Nancy Xatula asked the Truth Commission to investigate promotions awarded to those responsible for killing her nephew

She claimed all the policemen involved in the murder of Mr Leo Xatula had been promoted "How can they murder someone and be rewarded after this?" she asked

Leo went into exile in 1983 although he still moved in and out of Transkei. Around the end of June 1989, Xatula heard that "terrorists" had been killed in Bizana and three were missing

Soon after that, she was asked to identify Leo's body. She was also asked by two women to check if the bodies of their missing sons were in the Bizana mortuary

Xatula saw about seven bodies and positively identified Leo even though his corpse was almost beyond recognition because of injuries. "He had a scar on his forehead and

(252) *Sawetaw*
117/96
Families of victims of police brutality are outraged by promotion of perpetrators of serious crimes to high ranks in the SAPS and this lowers the respect people might have had for the police, reports **Claire Keeton**



Mrs Nobantu Mthimkulu ... disturbed that the policemen allegedly responsible for ordering her son's death used the courts to prevent her from telling his story

PIC CLAIRE KEETON

strangulation marks on his neck

"Marks on his wrists and ankles showed he had been tied tightly. He also had fractures. I saw a small hole on his side when I turned him over. I got very angry"

Xatula said she intimidated the policemen with abusive language and "looking, not closing my eyes". Xatula said she refused police pressure to allow them to do the post-mortem and bury Leo themselves

"They offered me R50 000 to keep quiet and I said 'No, you can't pay the price of my child'" She was restricted and the funeral was restricted

"The graveyard looked like a war zone and the coffin was searched for grenades. It was very painful that I could not put any soil on the grave of my child"

The family was beaten and the police threatened to "pick off the children one by one". Two of Xatula's sons were later killed and her daughter miscarried after being abused by the police

The post-mortem found that Leo had been shot at close range while tied down and the police were found responsible for his death. Criminal and civil proceedings are still pending

Moreover, Xatula claimed one policeman who admitted he shot Leo had since been pro-

moted from a constable to a major in Umtata. Xatula criticised the present Government for "expecting too much"

"It is very strange for people. They honour the perpetrators by promoting constables to high-ranking officials"

In response, Truth Commissioner Dumisa Ntsebeza said it would raise the anomaly that perpetrators of heinous crimes still occupy high office in the Government

He said the Commission would convey the sentiment "that something was wrong" when the Government continued to defend perpetrators in cases where the victims were the heroes of the struggle

The police were not the only officials accused of gross abuse last week, prison authorities came under fire too for suspected murder and deliberate maltreatment of prisoners

Mr Zola Twalo, whose brother Gwaza went missing in 1980, testified that Gwaza was allegedly thrown off a cliff by the prison staff of Umtata Central

Eastern Cape land and agriculture MEC Mr Ezra Sigwela claimed 10 political prisoners, including himself, were nearly starved to death in Pretoria Central Prison in 1969

Deprived of proper food

He described how a warder deprived them of proper food from their first day until, in desperation, they ended up eating floor polish and toothpaste

Sigwela said relentless hunger pangs, dizziness and hallucinations were also forms of torture - as severe as the electric shocks they suffered in detention

"It was exactly like a German concentration camp. The warder was brainwashed by apartheid"

Ten months later, the group was transferred to Robben Island after they went on a hunger strike in order "to die quicker together"

If the public response at the hearings is any indication of popular feeling, tolerance of unrepentant officials is dwindling

Siphwo's brother, Mzolis, said he was "absolutely frustrated" with the lack of progress in his brother's case. He warned the perpetrators to come forward and disclose their crimes before it was too late

Commission hits out at govt officials

David Greybe

BD 1/7/96 (252)

CAPE TOWN — A "gravy train" war of words has broken out between the powerful and autonomous presidential review commission into the public service and senior officials in the public service ministry

Commission chairman Bax Nomvete hit back yesterday at ministry officials who complained privately that commission employees such as consultants and advisers would be paid exorbitant fees

Nomvete denied the charge: "We will be guided by the rates that government pays" Any suggestion that it would be otherwise was "just a lot of nonsense"

In fact, Nomvete said, after three months' work his commission had "not received a cent" of a R3,9m pledge from government

He was currently using the money — in grant form — of the Africa Institute for Policy Analysis and Economic Integration. Nomvete is the executive director of the Cape Town based institute, which he also founded. The commission is working from its own premises

He said "I am using my own money because the bureaucrats are frustrating what I should be paid" The 12 local and four foreign commissioners attached to the enquiry had also not received a cent

However, he said "The bureaucracy is not going to delay the implementation of Public Service Minister Zola Skweyiya's vision of a revamped public service"

Skweyiya alluded to the criticism in a statement after Nomvete addressed senior officials recently. He said there was "concern among top public servants and other stakeholders about the slow pace, direction, lack of trans-

parency and progress of the work of the commission"

Nomvete suggested it was probably more accurate to speak of disgruntled government officials who were afraid of the commission's power and independence, and therefore its findings and recommendations

One top public service ministry official, who refused to be named, complained that the "problem" with the commission was it was "too independent"

The official said "If Skweyiya wants to exert any pressure on the commission he does not have the necessary mechanism"

Budget plan

Nomvete said the commission had only just completed its budget plan, which made nonsense of the "gravy train" accusations

The rest of the commission's estimated R14,4m budget for the next year had been pledged by three countries: R4,5m from Britain and R3m each from Canada and Sweden

The commission is scheduled to present its final report to President Nelson Mandela at the end of June next year.

Six task teams have been established to research and recommend a radical overhaul of the public service

Nomvete is reluctant to pre-empt the commission's findings, but has not ruled out the axing of whole ministries, a reduction of the estimated 1,2-million public servants way beyond the 100 000 figure being bandied about, and the privatisation of parts of the public service

The commission must also find effective ways to curb corruption within the public service, inherited largely from the former NP administration

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Salaries for magistrates

corrected

(252) CT 2/7/96

PRETORIA: The Justice Department corrected figures yesterday of a revised salary structure for magistrates after the old structures were issued at the weekend.

Magistrates' salaries would be increased from July 1 with a minimum of 20% across the board and the number of grades would be reduced from 32 to six.

The new structure would provide for salaries ranging from R65 520 to R221 141 a year.

The former salaries ranged from R40 868 to R131 476 a year.

Meanwhile, the Society of State Advocates said yesterday it was outraged by a pay rise for magistrates announced last week.

Society chairwoman Ms Retha Meintjes said from Pretoria: "The imbalance that now exists between salaries of magistrates and that of generally better qualified and overworked state advocates is not justifiable on the grounds of independency alone."

It was difficult to "understand that funds could be made available for suitable compensation and increases for magistrates and attorneys-general simply because of their status of independency."

"It is absurd to justify the present increases on the mere fact of independency, created by statute."

The society said poor pay had made morale among state advocates "dangerously low."

"The impoverishment of the prosecuting section will lead to a further loss of experienced prosecutors and the impoverishment of the judicial system."

She added: "In terms of this new salary structure, state advocates, who are all LLB graduates, will be earning less than magistrates, whose minimum qualification need only be a lower diploma in law." — Sapa

Competent 'sisters' put some colour into Frank Kahn's office

Staff Reporter

GAYNORE de Wee and Lucy Lochner are two "sisters" who are really doing it for themselves

Yesterday, Attorney-General Frank Kahn appointed them as junior advocates, making them the first coloured women in the Attorney-General's office. But Mr Kahn was quick to point out that they were not affirmative action appointees

"I would never select anyone who was not competent. They have earned their stripes and proven themselves as highly competent. I'm delighted to have them here," he said

Mr Kahn said Ms De Wee and Ms Lochner were personally selected by him from more than 40 applicants

This brings the number of women in the Attorney-General's office to 11. There are 39 male members. Mr Kahn said Ms De Wee and Ms Lochner came with excellent credentials and experience, and said he wanted to emphasise that they were not chosen merely because of their race

He admitted "There is an element of representivity, but it is not the overriding aspect"

Ms Lochner has taught Constitutional Law at the University of the Western Cape and is regarded by Mr Kahn as a specialist in this new field

Mr Kahn said the appointment of female advocates was also in keeping with the fact that 55 per cent of the Western Cape population was female

But he said the door was not closed to white men. "They still represent the backbone of this office."

Both women were impressed at the gravity of their new situation

Ms Lochner said "I have very mixed feelings. The set-up is very new and unfamiliar"

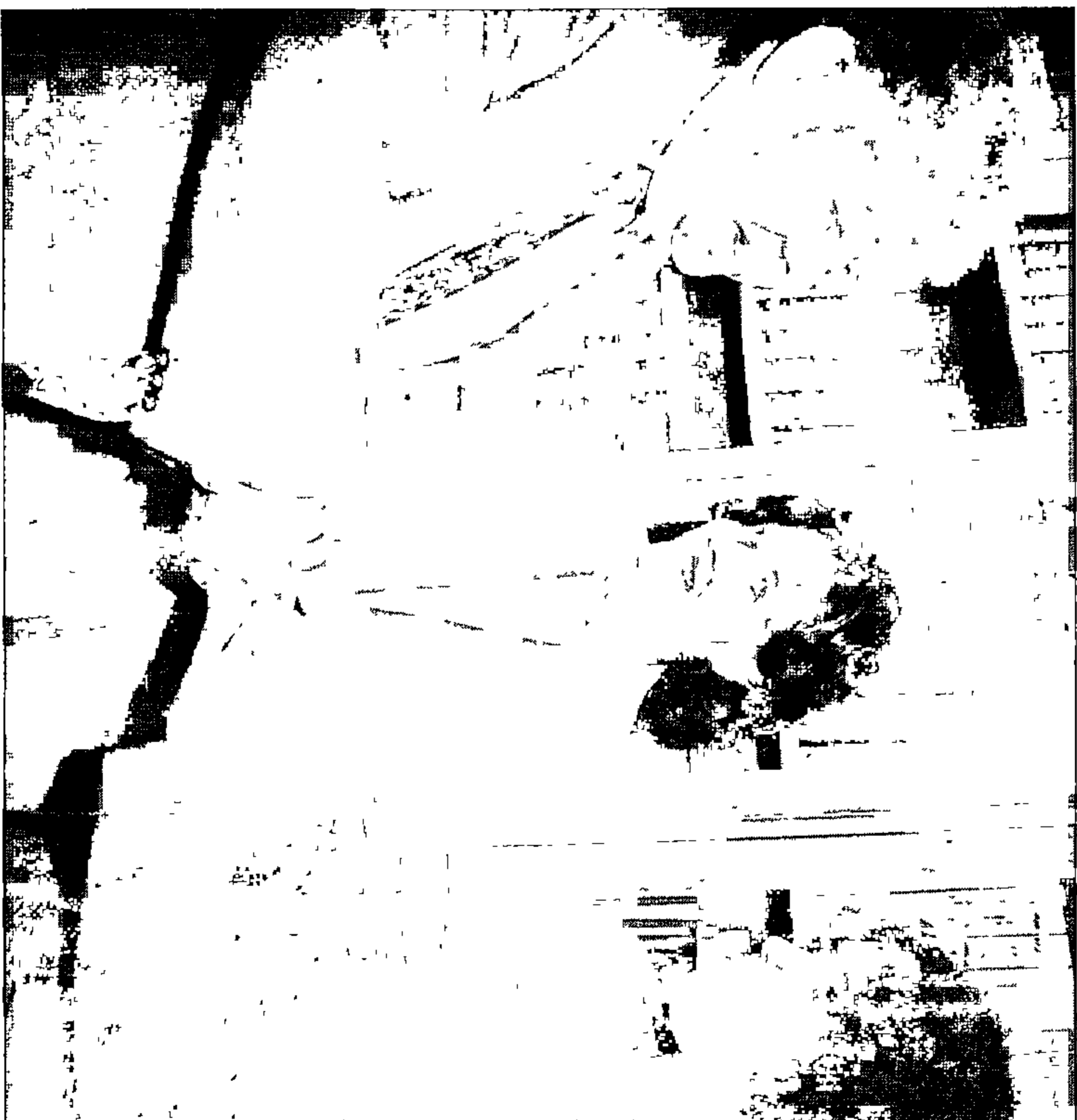
But she added that she had worked very hard to get there and that her colour may have made it quicker for her, but definitely not easier

Both women rejected the idea that they were appointed because of their skin colour and said they had worked hard to get where they were now. Ms De Wee said "I see it as a challenge"

But she said she had always known that she would eventually get to this position

"But as a woman, I had to work harder for it, to make my mark and to earn respect"

She said women had to work twice as hard to gain respect and to succeed



Picture HANNES THART, The Argus
CONGRATULATIONS! Attorney-General Frank Kahn shakes the hands of newly appointed state advocates Gaynore de Wee, centre, and Lucy Lochner, the first coloured women to be appointed to the Attorney-General's office

ARLg 2/12/96

(252)

State advocates outraged by pay increases

Stephané Bothma

PRETORIA — Overworked and generally better qualified State advocates are outraged by the magistrates' salary increases — of up to 171% — announced by Justice Minister Dullah Omar at the weekend.

The Society of State Advocates warned the impoverishment of the prosecuting sector would lead to a further loss of experienced prosecutors.

In the Transvaal attorney-general's office, where a severe staff shortage was preventing prosecution of major "third force" cases, six deputy attorneys-general had applied for severance

packages. In Cape Town nine senior State advocates and three in the Office for Serious Economic Offences had also applied for packages.

The society said the imbalance between pay for magistrates and State advocates was not justifiable on grounds of independence of the bench.

"In terms of this new salary structure State advocates, who are all LLB graduates, will be earning less than magistrates, whose minimum qualification need be only a lower diploma in law. Deputy attorneys-general will receive 60% less than attorneys-general, who are also receiving a 25% increase," said society chairman Rheta Meintjes.

Omar approved increases for magistrates ranging from 20% for senior and regional magistrates to 171% for magistrates with a few years' experience. Magistrates with five years' experience now earn R136 200 a year. Senior State advocates start at R100 308 plus a non-pensionable legal allowance of R12 150 a year.

While regional magistrates earn up to R177 278 a year, posts for deputy attorneys-general have been advertised at R131 437 a year plus a non-pensionable allowance of R11 802.

Salary increases of 25% were an-

Continued on Page 2

Advocates (252)

Continued from Page 1

nounced for Supreme and Constitutional Court judges, putting the salary of the best-paid judge — the Constitutional Court president — at R392 655.

Meintjes said: "The meagre increases of 15% for junior State advocates, an average of 10% for senior advocates and 12,9% for deputy attorneys-general held out as a prospect (by the Central Bargaining Chamber) will not in any significant way alleviate the

position, taking into account inflation and the lack of increases of substance in past years. Against the average of 59,1% increases for magistrates, the proposed increases for prosecutors are diminutive." A survey last year showed State advocates earned up to 70% less than counterparts in private practice.

Meintjes said the society did not begrudge magistrates a salary that reflected proven abilities, knowledge and responsibilities. "No presiding officer can ever convict a guilty person without that person's guilt being proven beyond reasonable doubt by the prosecution," she said.

Whites slammed for attitude towards TRC

Star 3/7/96 (252)

Reconciliation process 'will fail unless they make bigger effort to support commission'

By ROBERT BRAND
Bloemfontein

Truth and Reconciliation Commission vice-chairman Dr Alex Boraine has slammed South Africa's whites for their complacent attitude towards the commission

The reconciliation process would fail unless whites made more of an effort to support the commission, he said after a public hearing in Bloemfontein yesterday

He was "deeply disappointed" at the small numbers of whites in the audience at commission hearings

"There does seem to be a view that this is something that does not affect (whites) Some may feel that they are being insulted and vilified

"That is absolute nonsense This is not something that has to do with blacks It has to do with South Africa, with the nation, with human rights"

At times yesterday, the Bloemfontein City Hall was filled with several hundred people - but the only whites were in the media contingent and the commission

panel

"I am particularly distressed at the audience today," Boraine commented "If this continues, it lessens the possibility of reconciliation The situation is serious"

Boraine also criticised the churches for not acting upon their expressed support for the commission's processes and failing to encourage their members to attend hearings

"They are shirking their responsibility by not being present at a moment of history for our country People who are concerned about human rights should make an effort to be present (at the hearings)"

Another commissioner, Dr Khoza Mgojo, said he felt whites were not taking the opportunity

offered to them by the commission to become part of the reconciliation process

"I thought this was an opportunity where whites could come and listen in a spirit of tolerance to what happened in our country

"They're losing an opportunity when we as a rainbow nation should come together"

Besides media contingent, only blacks attending

Tutu pays visit to 'symbol of pain'

By ROBERT BRAND

Bloemfontein - Truth and Reconciliation Commission chairman Archbishop Desmond Tutu yesterday visited the Nationale Vrouemonument and described it as a memorial for women and children who had suffered and a symbol of pain which had "poisoned" relations between Afrikaners and English-speaking South Africans for decades

The monument, one of the most sacred to Afrikaners, commemorates the more than 26 000 women and children who died in British concentration camps during the Anglo-Boer War

It also harbours the graves of British relief worker Emily Hobhouse, revered by Afrikaners for her role in alleviating conditions in the camps, and former Free State president Marthinus Steyn

"If Afrikaners and English had sat down to talk about their pain

and suffering, perhaps their relationship would have been different," Tutu said after praying at the foot of the monument

"What we are trying to do in the Truth and Reconciliation Commission is to deal with our past so that we don't have to

keep coming back to it, so that it doesn't poison relationships as the relationship between Afrikaner and English was poisoned"

Tutu said the Vrouemonument had a place in South Africa's cultural heritage But many other women, not only

Afrikaners, had also suffered during SA's history

"We must think of all the mothers and children who have suffered in this country, like the Afrikaners in the concentration camps

"But we have also been listening to many mothers who have suffered"

Tutu said he hoped women in South Africa would come together to devise a memorial to their suffering - but a "more creative" one which "does not look back only"

"This country has borne so much pain, but that pain and suffering must not be ingrained

"We hope many will hear the cries and see

the tears, including the tears of those who wept for the victims of the concentration camps

"But we hope that all that pain and anguish should work for the salvation of our land"

CHRISTINE NESBITT



Think of all who have suffered .. Tutu visits the Nationale Vrouemonument during a lunch break at the TRC

Sniffing out an old, cold trail

(252) Sowetan 3/7/96

By Claire Keeton
Feature Writer

The investigations unit of the Truth Commission faces tough challenges

THE INVESTIGATIONS UNIT is the engine of the Truth Commission if it does not function efficiently, the commission cannot make any real progress – and it has only until June next year

Unlike police investigations into daily crimes, the Investigations Unit has to uncover the truth about human rights abuses as far back as 1960

The national director of the unit, Advocate Glenn Goosen, says “Many of the investigation routes one would follow have gone very cold or are no longer there”

He says a number of major cases before the commission were badly investigated in the past “In the process evidence was destroyed and witnesses disappeared This makes it difficult to conduct a proper investigation now”

But he is confident that the strong team of investigators employed by the commission will be able to make inroads into unsolved cases, and establish the truth about the disappearance or assassination of many people

International investigators

The unit, which will employ 62 members, is the biggest unit of the commission A number of international investigators from the Netherlands, Denmark, Norway, Sweden, Switzerland and Ireland have been seconded to support it

The unit started to take shape in March and, together with the Research Unit, was thrown headlong into servicing the three committees of the commission

The commissioner responsible for investigations, Mr Dumisa Ntsebeza, has announced one instance of the unit's work at the Umtata hearings recently

He says investigations into the killing of student activist Mr Bathandwa Ndonga has cleared Ms Kolelewa Sosa of any blame She has been living under a cloud of suspicion since the cold-blooded murder in 1985

According to Goosen, the unit is currently investigating the assassination of numerous anti-apartheid activists in the frontline states, the involvement of various institutions in campaigns of terror in the townships and the involvement of very senior security force members in third force activities

Corroborative work

The unit will be required to do most of its work for the Human Rights Violations (HRV) and Amnesty Committees, although it may need to do investigations for the Rehabilitations and Reparations Committee at a later stage

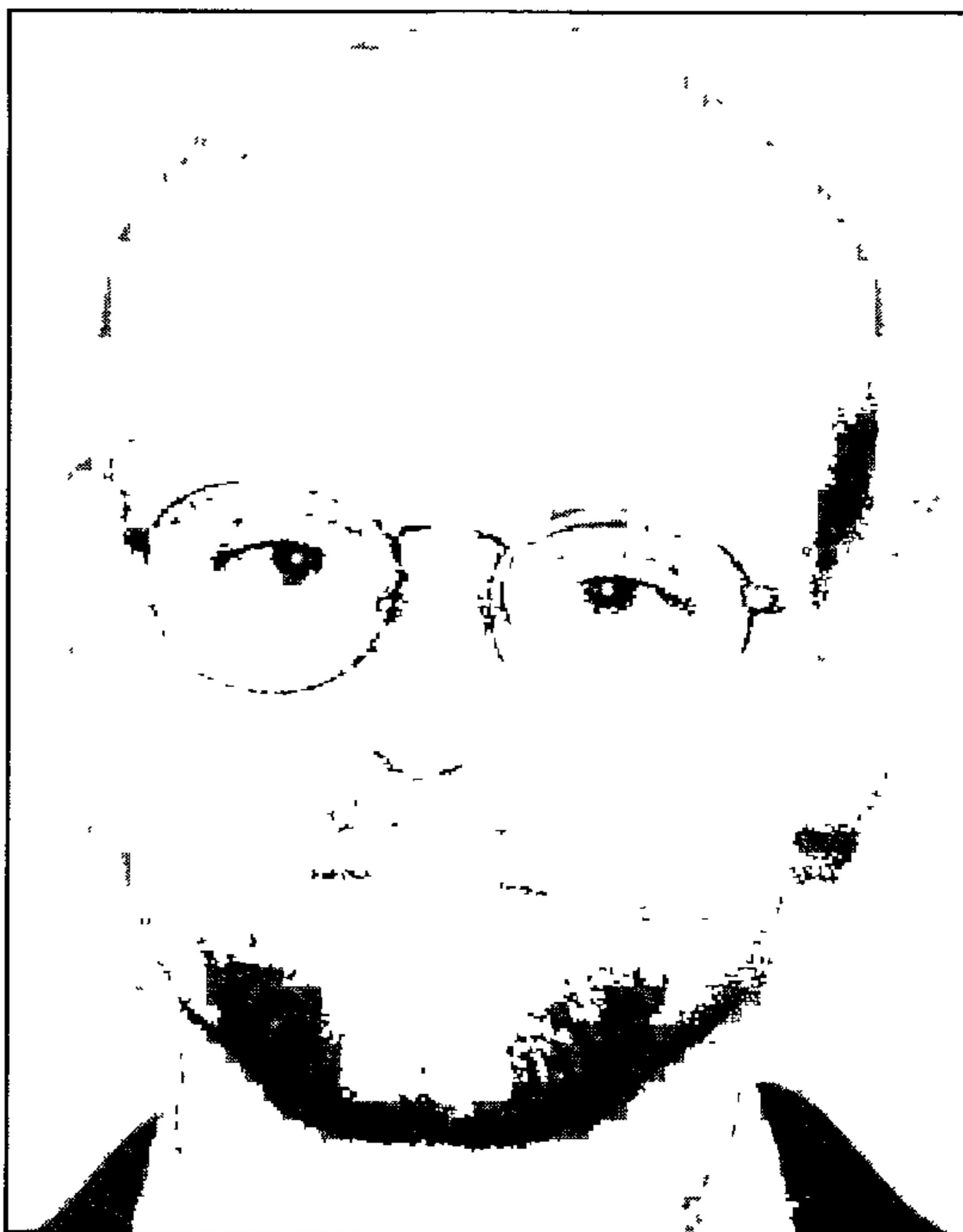
The investigators, in cooperation with the researchers, need to do basic corroborative work for the statements submitted to the HRV committee to check that the facts are true

Every statement given to the committee is registered and entered into a computer database before being handed over to the Investigations Unit

Once they have completed their initial work, this is passed on to the HRV committee to decide whether to make a finding, see if it should be further investigated or invite the victim to a public hearing

The investigators have to do their first investigations rapidly to keep up with the overwhelming workload hundreds of statements are pouring into the commission from across the country every week

The Johannesburg office is particularly busy as this region covers several



Advocate Glenn Goosen is confident that the Truth Commission's investigators will make inroads into unsolved cases.

PIC CLAIRE KEETON

‘The approach by 22 members of the security forces recently is a positive sign’

former homelands and the old Transvaal, a vast area which is densely populated

All victims or survivors of gross human rights violations are invited to submit a statement to the commission

“There are high expectations that the Truth Commission will be able to provide a response to each person who comes forward and claims to be a victim We are dealing with a long history of human rights violations in a short space of time

“These and other constraints may mean that we will not be able to fully investigate every case before the commission However, it is important that people come forward so that we can gather as much information as possible to establish patterns of abuse

“Another problem is that many matters we are required to investigate are in court or are pending, and we must be careful not to impede the normal course of justice”

Goosen says the investigations for amnesty applications follow a similar process to those for HRV, with the unit doing an initial appraisal of each application

“We are required to gather enough information for the committee to make a decision about whether the applicant has made a full disclosure or not,”

Goosen says

The national investigation team coordinates the work at its Cape Town headquarters and directs work to the investigators in four regions

Another category of its work involves “special investigations” and deals with cases in which there are indications of high-level authorisation of the alleged violations and which indicate certain forms and patterns of abuse Mr Winston Maghadla heads this section of the unit

Event hearings

In addition, the investigators may need to prepare for event hearings, special hearings and submissions by political parties or organisations

The event hearings will be of a particular type of abuse, for example the Bisho massacre, while the special hearings will focus on various types of violence such as attacks on policemen

The unit is also required to determine what material is available to assist it and to establish why certain documents have been destroyed

The commission has the power to subpoena people to appear to give evidence before it and search and seizure powers “While the Truth Commission is geared to receive the testimony of human rights victims, it needs the perpetrators – those responsible for human rights abuses – to come forward and give their account of what happened,” Goosen says

“We are beginning to see now that people are more prepared to come forward and make disclosures about their role or the role of institutions in human rights violations The approach by 22 security force members recently is a positive sign”

Omar slams false release

(252) SD 3/7/96
PRETORIA — Justice

Minister Dullah Omar has slated as "mischievous" reports that magistrates are to be re-named judges.

Omar yesterday said it had come to his attention that a bogus media release to this effect was apparently in circulation among judicial personnel in Johannesburg and in Pretoria.

The release claimed that, as from July 1, all the lower courts' judicial officers would be re-named "judges", and all protocol associated with the office of judge would also apply to them.

"This is totally incorrect and highly mischievous," Omar said.

"I announced in Parliament we should move towards one judiciary. I also stated that consideration should be given to rename magistrates in the future as judges.

"I, however, made it clear that such a move is something that will be done in a consultative manner and is not something that can be done overnight," he said.

"It will be part of a larger process of raising the status and standing of magistrates as judicial officers and strengthening the independence of the judiciary" — Sapa

Law Society believes in most members' integrity

Susan Russell

THE Transvaal Law Society, when it appointed an independent commission to investigate unsubstantiated public complaints about misconduct by attorneys, said it believed the move would substantiate the confidence it had in the integrity of the majority of its members.

The relatively few complaints received by the one-man commission, conducted by retired magistrate Willem Krugel, indicated that the society's faith in its members as a whole was not misplaced.

However, the fact that Krugel, who released his report last week, was presented with evidence that an increasing number of attorneys were involved in the relatively new phenomenon of money laundering and fraud, does support public calls for more transparent disciplinary procedures by the various law societies.

While the society remains convinced that most of its members are honest, it has repeatedly emphasised its commitment to creating greater transparency in the way it exercises its regulatory and

disciplinary functions. In doing so it has to balance the interests of its members and those of the public, which perceives it as being too protective of members.

The commission received about 110 complaints and allegations. Less than half were against specific practitioners, but did include 14 complaints of unethical or dishonest handling of third-party claims by individual attorneys, and allegations of involvement in money laundering against five others.

Although Krugel formally handed his report to the society last week, he and the society stressed that the names of none of the attorneys implicated would be made public at this stage.

There are a number of reasons for this. Firstly, Krugel's commission was not a public one and had no power of subpoena so that attorneys implicated could not be called to testify.

Secondly, Krugel made the point in his report that the inquiry drew an unexpectedly large response from the public, which meant there was insufficient time to give attorneys implicated by ev-

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(252) BD 317196

discipline notice to attend if they wished to

Among those who did give evidence, or provided documentary proof under oath behind closed doors, were representatives from various financial institutions who submitted information about incidents of money laundering.

Krugel said he was informed by concerned financial institutions that the instances in which attorneys trust accounts were being used to launder money were on the increase.

Vast sums of money were involved, Krugel said. Handling over his report to society president Esme du Plessis last week, Krugel said it would have been preferable if a public commission with greater powers had been appointed although he believed his commission would benefit the profession and public.

Du Plessis said the society's disciplinary bodies had already started investigations into the evidence received from Krugel. It was now policy to publish the names of members found guilty and struck off the roll, or found guilty of disgraceful conduct.

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Zimbabwe's textile woes

Michael Harrack

HARARE — A further 2 000 Zimbabwean clothing workers yesterday faced redundancy, just as SA Textile Federation president Mike Hankison said it was ready to agree to a 50% tariff reduction and drop the demand for 75% Zimbabwean content.

Sources in Harare said the textile industry's problems were not only due to loss of SA markets but from interest rates of up to 40% caused by chronic government monopolisation of the money market, and protracted problems with lint production.

Industry and Commerce Minister Nathan Shamyayarra appealed to managements to stave off closures until conclusion of the latest round of talks with SA officials, business and trade union leaders, begun with Alec Erwin in Victoria Falls last month.

Hankison said that further meetings were scheduled for Cape Town later this month.

Tighter security at truth hearings after gunman threatens to kill Tutu

By ROBERT BRAND

Bloemfontein - Security has been tightened at the Truth and Reconciliation Commission hearings here after an armed man slipped through the police cordon at the Bloemfontein City Hall and

threatened to kill Archbishop Desmond Tutu.

The Star understands that the man got into the hall on Tuesday on the pretext that he wanted to make a statement to the commission.

The man, described to The Star

as "a black male", then told an acquaintance in the hall that his real intention was to get close enough to Tutu to assassinate him.

The acquaintance immediately notified commission officials, who alerted the police.

But the man had already fled

Commission media director John Allen said Tutu had left for Cape Town halfway through the hearing on Tuesday afternoon, unaware of the incident.

"Although we do not have full details, we have been told that security was stepped up immedi-

ately. We'll take up the incident as a matter of urgency with the police, who bear overall responsibility for security at commission hearings," Allen said.

The main entrance to the city

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seweta 4/7/96

Truth probe security (252) stepped up

From Page 1

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hall was tightly guarded on Tuesday, with a metal detector and several uniformed policemen searching people who wanted to attend the hearing. But a side door, used by the media, was open and unguarded all day.

The Star understands that the gunman entered through this side door.

The policeman in charge of security at the hall, Capt Nicky Jonk, confirmed he had been informed about the incident and that the police were investigating.

"There is an allegation that a man came into the hall with a firearm and threatened to shoot Archbishop Tutu. We have tightened security at the hall," he said.

Jonk said all entrances to the hall, except the main entrance, would remain locked today, the last day of the hearing.

A 'bleddy advert for Twinsavers'

(252) MFG 28/6-4/3/96

Worcester residents had widely different opinions of the truth commission which visited their town this week. **Marion Edmunds** reports

DOWN at the Brandwaacht Hotel, in the saloon bar, a Worcester prison warden sat glowering over his brandy and coke. It had

been a pleasant enough afternoon, until two journalists had come in for a drink and asked him what he thought of the Truth and Reconciliation Commission, which had held hearings about police and prison atrocities all week down the road

"Hond se," he muttered into his glass, and scowled. But then, suddenly contrite, he turned and said

"It's not that I am *lelik, jy weet, maar wat is verby is verby* and you should not go and dig it up. And half of what they say is not true. I work with these people in the prison, and I know that three-quarters of the staff feel the same way as I do." Another sip

"You know, it's not the *uxaithids-kommissie*, it's the *hulkkommissie*, the *trankommissie*, it's an advertisement for bleddy Twinsavers — you have to cry to be on it. A person stands behind the guy speaking and if he's not crying enough, he pokes him with a needle to make him cry more."

The joke about the Twinsavers and the *trankommissie* cheered the prison warden up greatly. It's the current joke in white Worcester. Wally the barber tells the same joke to his clients as he trims their beards. And it was cracked by Dr Kallie Ndaba, a white Afrikaners herbalist, who treats the community's ills with herbs he gets as nearby as Montague and as

far afield as Singapore. His specialties are "*malkopslekte, swangerskap, huiwelksprobleme* and *hojfsake*", but not the past or collective guilt, truth or reconciliation

While many whites had seen the Worcester hearings on the TV news, comparatively few had gone down to the teachers' training college to listen to the three-day hearings which targeted Worcester and surrounding Boland areas, nor seemed to feel the need to do so. In fact most of the people who had gone to the hearings were from the communities who had first-hand knowledge of suffering under apartheid rule

Many witnesses wept as they told their stories of relatives shot dead by police, of beatings and of torture

Sarahine Joseph, harrowed and gaunt, leaned her forehead against the edge of a desk and sobbed when recalling the day, six years ago, when she heard her son, Johannes Jones, had been shot by a policeman in Robertson. All the policeman had said to her on the day was "I am sorry, auntie, that I shot your son." Later, an inquest reported that nobody could be held responsible for the shooting

"I miss him. My son was industrious, he worked to our benefit. I would appreciate any assistance that comes my way because of the difficult circumstances under which I raised him," she said

In wrapping up the hearings on Wednesday, commissioner Pumla Gobodo thanked Sarahine Joseph for



Harold J Baxter: The truth hearings in Worcester were 'not on a proper scale. The oppression was so much bigger than we have heard' PHOTO RODGER BOSCH

her testimony. She thanked all who had given evidence, she thanked all who had come to listen, she thanked the translators, the caterers, the janitor and the police who had guarded the door. She thanked the media. She thanked mothers for bringing their children. She thanked people for sharing their grief. With the stage full of potted ferns and flower arrangements, it was like a school prize-giving ceremony

We can never fully comprehend the extent to which these people have suffered. These are very special people who can relate this suffering, people who come from the little Boland town

justice can be done for them by the commission?" Baxter said that he wanted to hear evidence from the policemen who had tortured and shot his comrades. He wanted to know what the other side was thinking now

"That would have been interesting. Now that we, the ANC, are in government, how do they feel about what they did? Nee man, it's a *hulkkommissie*, it's a *begkommissie*."

Forty-year-old Johannes Hendricks believed that the commission had introduced a measure of reconciliation between the white and black communities in Worcester. He said he had been touched to see a high-profile white businesswoman wiping her eyes, while listening to the hearings

"So it does help. You see those people can learn if they see what happened and you think while you are listening, this could be my mother on the stage, this could be my son, this could be me."

Hendricks was an activist in the Seventies and Eighties. In 1980 he participated in a June 16 protest and was knocked down by a police car, and had his legs driven over

"They put me in the back of the car, and I dived out the other door, and then I saw a policeman standing with a gun, and I thought, 'Hey, I'm too young to die', so I let them handcuff me. I spent 10 days in prison before my grandmother found me and bailed me out. Then I was convicted for public violence and had to spend every weekend in jail for six months."

He paused when asked why he had not applied to give evidence at the hearings. "I don't want to go on the stage. I don't want to go before the people." His voice trailed off. "Because when I think about the Eighties, when I talk about it — it makes me cry." He turned his head away to hide the tears

Officials gone today and back tomorrow

(252) Sowetan 4/9/96

By Rafiq Rohan
Political Correspondent

WITHIN just one year a staggering 78 senior – mostly Afrikaner – officials have resigned from the Department of Justice, citing ill-health as reasons.

Were they really so sick that they had to resign or were they just simply sick and tired of working for the new South Africa?

It is a mystery we'll probably never get to the bottom of because Minister of Justice Mr Dullah Omar himself has provided no clues.

The age range (between 40 and 45) of some those who have retired provides further cause for speculation.

The surnames of the unhealthy retired persons read like a who's who on an Afrikaner family tree.

There's an Aucamp and a Fourie, a Vermeulen and a De Beer among others.

One interesting name featured on the list is a certain "K P C O Von Lieres und Wilkau".

Interesting, because not so long ago, as revealed in *Sowetan*, the said sickly retired Klaus von Lieres und Wilkau pitched up in KwaZulu-Natal as defence counsel in a much-publicised court case involving a coterie of former apartheid defenders.

Sick yesterday, retired on huge sick pension today and back at work tomorrow in a new job earning big bucks. Life can really deliver tough blows sometimes.

And what is the total cost of all of this to Government? Well, the pension fund lump sum payout amounted to R11 719 844, 02. Gratuities amounted to a staggering R4,8 million and "other payments" – heaven alone knows what these might be – came to R204 568, 25.

When all is said and done, the term "gravy train" takes on a whole new meaning.

TECHNOLOGY

Truth Commission sets up Oracle database to keep track of human rights abusers

(252) CT(MR) 4/7/96

The Truth and Reconciliation Commission has set up a computerised database to store the details of alleged violators of human rights

Details of each individual named by witnesses will be entered into an Oracle database system. Investigators of human rights abuse will then have instant access to the information stored in the database.

Gerald O'Sullivan, the commission's information systems manager, said he expected tens of thousands of allegations of human rights abuse to be submitted to the commission.

Each must be recorded, ana-

lysed and investigated, he said.

"On top of this, we expect to receive hundreds of applications for amnesty from these perpetrators, many of which we will cross-check with information received from victims."

As more victims came forward to tell their stories before the commission, it would become necessary to keep track of all the data and perform rapid searches, said Andre van Heerden, the project manager at Oracle.

The new database would enable searches to be performed on the data to match weapons or vehicles used in human rights violations and it would allow the characteris-

tics of alleged perpetrators to be identified, he said.

"Investigators will be able to track individuals' involvement in alleged human rights violations in detail, whether they are victims, perpetrators, witnesses or amnesty applicants," Van Heerden said.

The system would also enable the commission to hear testimonies from the widest possible cross-section of individuals by facilitating the systematic planning of the hearings, he said.

The entire contents of the database would be available online to all four regional offices of the commission across a wide area network.

Access to the database would be on a point-and-click basis. No specialised knowledge would be necessary to extract the information and interested parties, including investigators, would be able to extract required information quickly and efficiently, he said.

The first phase of the Oracle project had to be completed in one month and go live on deadline, Van Heerden said.

Oracle is a multinational supplier of software for information management and has an annual revenue of more than R15,75 billion.

The company's products are available in more than 90 countries worldwide.

TRC hears of plot to assassinate Tutu

(252) CT 4/7/96

ROGER FRIEDMAN

BLONDISSA: A man with a gun gained access to the City Hall here on Monday aiming to assassinate Archbishop Desmond Tutu, the Truth and Reconciliation Commission has been told.

The man was not seen by the force police continued on duty outside the city hall and the gun was not detected by the X-ray machine at the main entrance. The man was shot and killed at Tutu's hotel by police in the afternoon after charging the commission **morning** session on Monday.

But security forces apparently looked up on Monday after the com-

mission of security forces at the information from many of the commission investigators for Mr. Pulzani, a tipped off by a very reliable source, claiming to have been shown the gun inside the hearing venue.

Formerly National Free State commission spokesman Mr. Mulu Lembeke said, "My informant claimed the alleged gunman had come to City Hall in order to make a statement concerning a human right violation."

He showed the informant the gun and remarked that he had been able to walk in and out of the venue several times without it being detected.

It is unclear why he might have wished to kill Tutu.

State advocates' threat to strike

Magistrates' 171,9 percent pay rise a bone of contention

The Argus Correspondent

PRETORIA - State advocates here are considering their options, including the possibility of strike action, after the announcement of huge increases for magistrates

Society of State Advocates chairman Retha Meintjes said at the end of a Pretoria branch meeting that city advocates were considering the possibilities of strike

action

She said should the state fail to address the issue of advocates' salaries, the society would investigate and formulate proper means of expressing their concern, adding some form of strike action would be considered

Justice ministry spokesman Paul Tsetsetse earlier said Minister Dullah Omar had taken note of warnings by the state advocates of further resignations by

advocates

The Society of Advocates this week expressed outrage at salary increases of up to 171,9 percent for magistrates

The advocates said prospects of increases averaging 10 percent to 15 percent for advocates working for the state would do little to stem the flow of advocates leaving government employ. More than 24 senior advocates have applied for severance packages

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Woman appointee to top job in A-G's office a step to making justice 'representative'

LINDSAY BARNES
Staff Reporter

ARG 4/7/96 (252)

FROM a tender age, Tessa Heunis, appointed a senior State advocate in the Western Cape, was destined for the top.

Ms Heunis is the third woman promoted to this level in the office of Western Cape Attorney-General, Frank Kahn.

Her promotion was hastened by her involvement in a range of prominent cases such as the trial of Giuseppe de Blasi, convicted of murdering his wife Francesca Gobbi in 1993.

Mr Kahn welcomed the move and said that while magistrate's courts were fairly representative of the population, the same could not be said for his office.

"Regrettably in my office only five percent of staff are black and 20 percent female.

"A greater degree of representativity is clearly required."

He called for a clear strategy on representativity to be formulated and said that a greater emphasis should be placed on job candidates' potential ability rather than proven ability.

For years a policy existed that women were not promoted to the Attorney-General's office and their progress was retarded.

Born Tessa Lilian Knipe in 1962, Ms Heunis showed early promise as a pianist and first performed with the Cape Town Symphony Orchestra when only 11 years old.

After winning numerous prestigious contests and the

national scholarship to the Royal College of Music in London, the child prodigy - who also excelled at ballet, Spanish dancing and the clarinet - turned down the offer to study law instead.

As it turned out, this decision was no mistake.

At only 33 years old, she has clocked up a long list of achievements - culminating with her promotion - since she qualified with a BA in law from the University of Cape Town in 1984.

She expressed her delight at her appointment and told of her intention to help transform the courts into warmer, more victim-friendly places.

Unlike women who attain high-ranking positions and sometimes fail to encourage their women peers, she is adamant her promotion will benefit other people.

"I am very aware of women's rights and I want women to become more aware of their value.

"I would like to be their voice when their rights are battered," she said.

Many people who appear in courts, especially women, fear the process and this needed to be addressed, she said.

"We need to make the community more aware that we are there to help them."

She applauds the appointment of women to more senior positions in the Attorney-General's office and believes that it is essential that an office be representative of the general population.

"We need to have people out there that everyone can relate to," she said.



Picture DOUG PITHEY, The Argus

BREAKING GROUND: Newly-appointed senior state advocate Tessa Heunis is one of three women to attain the high-ranking position

Corruption truth forum to be set up

ARG 4/7/96

(252)

Political Staff

TOUGH new legislation to set up a "corruption truth commission" to uncover apartheid-era corruption has been approved by the cabinet

It said in a statement in Pretoria yesterday that the Institution of Special Investigation Units and Special Tribunals Bill, which will establish the commission, would come before parliament when the winter recess ends early next month

The Bill was one of 17 approved

The corruption commission was first mooted by President Mandela late last year after the Skweyiya commission of inquiry found evidence of corruption in the government of the former Bophuthatswana homeland

Mr Mandela said then that another commission would be set up to inquire into corruption in the former South African government led by the National Party until April 1994

Since then Justice Minister Dullah Omar has been hard at work to finalise the legislation

A Department of Justice official said last night that the bill, which has not yet been released to the public, contained tough measures to delve into corrupt dealings within government

Also approved was the establishment of a judicial commission of inquiry to investigate the circumstances and the impact on surrounding communities of the fire in a stockpile of sulphur at the Somerset West plant of AECI Limited last year

Two brothers were killed, 120 people were hospitalised and 2 500 families living in nearby Macassar had to be evacuated from their homes as a result of noxious fumes from the fire

Other legislation approved by the cabinet were two measures to streamline the justice system, an extradition amendment and a bill to formalise South Africa's role in international crime-fighting efforts

A bill to constitutionalise traffic police speed-trapping methods also got the nod

The cabinet received a progress report on the establishment of an Office on the Status of Women which is to be located in, and overseen by, the office of Deputy-President Thabo Mbeki

'Evil' ruled in townships, truth commission is told

Stephen Laufer

BLOEMFONTEIN — The evil which gripped the townships of the Free State under apartheid was the subject of most testimonies to the truth commission yesterday.

Members of the commission's human rights violations subcommittee heard testimony from all sides of the political divide about relentless and often random police terror, state-inspired gang warfare and ethnic and political and often violent differences between conservative supporters of government's homelands policy and the liberation movements' supporters.

Others told of the pain and humiliation of being taken for traitors by their own side in the conflicts which gripped the Free State during the 1980s.

A sprinkling of whites listened intently, apparently responding to commission deputy chairman Alex Boraine's remark on Tuesday that hearings in the city had been treated as if they were only for SA blacks.

SACP veteran Morcken Phehlane testified about the murder of his wife, stabbing of his son and burning of his shop in 1991 in Phatakahle, the township outside Brandfort to which Winnie Madikizela Mandela was banished for many years.

Having endured years of harassment by the SAP special branch, Phehlane and his wife accepted nomination to the township council in the 1980s, leading young anti-apartheid activists to label them as sellouts.

Phehlane said he had joined the

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council because, as a community leader, he had been under pressure to get the best deal he could for the community by accessing council resources.

Commission members said they had heard testimony that Phehlane had headed one of the rival gangs which terrorised Brandfort, the Eagles.

Although he denied this, commissioners said after the hearings that the allegations appeared serious and were being investigated further.

Among those giving evidence of assaults by "comrades" was Ngunani Pistol. A Botshabelo township resident, he claimed he was beaten and stoned on his way home from a QwaQwa rally addressed by Charles Mopedi.

Bettie Loape told the commission a random police shooting had cost her son Papiki, an amputee, his life in 1984. Papiki, 16, had been returning from hospital when police opened fire, wounding him fatally.

Selina Dizeko's son also died in a similarly random incident. Visiting his grandmother in the Thaba Nchu district, he was asked by two Bophuthatswana policemen why his shirt was bloodstained. Rejecting his reply that he had suffered a nosebleed, they beat him so badly he died a few days later.

Former headmaster Elias Molatse, 82, described a year of harassment by Bophuthatswana police in Thaba Nchu after discovery of a book by Booker T Washington and a photo of Steve Biko in his house. Then aged 64, he had to report twice daily to police, and was severely beaten, leaving him with permanently impaired hearing.

Chiefs see 'no role' in new constitution

(252)

Proposed Bill of Rights would inflict irreparable harm to cultural values of country's indigenous

people, Constitutional Court hearing told *Star 5/7/96*

By **PATRICK BULGER**
AND **HELEN GRANGE**

ANC-aligned traditional leaders - among them Winnie Madikizela-Mandela - yesterday came out in open opposition to the new constitution, alleging it violated a "pact" between political parties and chiefs

Congress of Traditional Leaders of South Africa (Contralesa) national committee member Mweliso Nonkonyana told the fourth day of Constitutional Court hearings on the new constitution that the proposed Bill of Rights would "inflict an irreparable harm to the entrenched cultural values of the indigenous people of South Africa"

"There is absolutely no role for traditional leaders at local government level," he said

The 11 CC judges are sitting to certify or reject the constitution adopted by the Constitutional Assembly on May 8. They have to rule on whether it accords with the 34 constitutional principles

adopted at the Kempton Park talks in late 1993

Contralesa's testimony temporarily put the ANC-aligned organisation in the same camp as the Inkatha Freedom Party, which earlier argued that the institution and powers of traditional leaders were protected by constitutional principle 34, which guarantees the right to self-determination

Contralesa president and ANC MP Patekile Holomisa, who is facing an ANC disciplinary inquiry for joining an IFP protest in support of traditional leaders last year, resumed his unsuccessful attempt to persuade the constitutional process to entrench unelected traditional leaders in new local government structures. The constitution merely gives Parliament the power to define a role for traditional leaders but is silent on the nature of that role

"This land is a land of kings, and traditional leaders have their subjects all over the country. They should be represented on a national as well as on a provincial

level," Holomisa said

Their testimony appeared to draw a sympathetic response from Mr Justice Albie Sachs who said the constitution appeared "hesitant in relation to the matter" and that it appeared to "marginalise gratuitously" an important sector of the community

Asked by Sachs to explain the alleged hesitancy, Marumo Moe-rane, SC, for the Constitutional Assembly, said he could not give a rational answer but that it may have been because of the "political sensitivity" of the issue

Earlier David Unterhalter, SC, for the IFP, told the judges that constitutional principle 34, which was intended to provide Afrikaners the right to "self-determination", was relevant in determining the status of traditional leaders in KwaZulu Natal

The CC's stance on traditional leaders will become clearer today when the judges deliver their ruling on the constitutionality of two KwaZulu Natal bills addressing the payment of traditional leaders

Mamasela gives truth body info on Pebco 3

BY ROBERT BRAND

(252)

STAN 5/7/96

Former security policeman and self-confessed killer Joe Mamasela has given the Truth and Reconciliation Commission "enormously helpful" information on the murder of the so-called Pebco Three, the commission said yesterday.

He also gave the commission information on Third Force activities relating to a number of unsolved crimes, commission vice-chairman Dr Alex Boraine said after a meeting with Mamasela and Transvaal Attorney-General Jan D'Oliveira.

A decision on whether Mamasela and other individuals would be subpoenaed to testify before the commission would be made at the next meeting of the full commission on July 16.

The commission's head of investigations, Dumisa Ntsebeza, also attended yesterday's meeting, which was held at the request of D'Oliveira and Mamasela.

Mamasela has admitted publicly to his involvement in the murders of Siphon Hashe, Qaqawuli Godolozu and Champion Galela, the three Port Elizabeth Black Civic Organisation activists who disappeared in 1985.

But at yesterday's meeting, Boraine said, the commission was given "a considerable amount

of new information" including details of how and why the three were killed and individuals involved in the killings.

The information was still confidential because it had not been given at a public hearing, but it would "help enormously" in the commission's own investigation, Boraine said.

Additional information relating to unsolved incidents allegedly was given to the commission by D'Oliveira. His special investigations unit's probe of Third Force activities has already led to the indictment of former security policeman Eugene de Kock and the arrest of several other policemen is reportedly expected soon.

D'Oliveira said last week that moves by 22 policemen to apply for amnesty from the commission were probably a direct result of his investigations.

Meanwhile, at the commission's hearing in Bloemfontein, witnesses yesterday named Mamasela as the killer of 7-year-old Melodi Sesele.

Ellen Sesele said her husband, Sylvester, blamed her for Melodi's death because she had refused to take the children to Kroonstad for the December holidays in 1986.

Sesele told the commission an inquest court had failed to blame Mamasela for the killing.

DEFLECTING DOUBTS

AM 5/7/96

After nearly three months of hearings, the Truth & Reconciliation Commission has submitted an interim report to President Nelson Mandela. It has also asked him to extend its deadline by six months, signalling the vast task ahead in pursuit of its objective: probing SA's violent past in a way that promotes national unity.

Grave doubts about the commission have been expressed since the idea was first mooted by the ANC in the wake of the 1993 Motsuenyane report into abuses in ANC detention camps in Angola. These misgivings focus largely on fears that the commission will rewrite history to exonerate, if not glorify, the ANC while condemning the brutality of Afrikaner nationalists and their auxiliaries. Scepticism persists.

Inkatha's Koos van der Merwe detects two cardinal weaknesses in the commission: the pro-ANC bias of most commissioners and their unwillingness to acknowledge the role played by rival parties in the demise of apartheid. He predicts that the commission will deliver "an ANC version of the truth."

DP leader Tony Leon implicitly accuses commissioners of leading and informing witnesses who execrate the security forces while limiting the testimony of "anyone damning the ANC."

He singles out commissioner Dumisa Ntsebesa, who has called for those indicted before the commission for abuses in defence of the old order to be drummed out of office. "What's objectionable," says Leon, "is the blatant bias shown by Ntsebesa, who's not demanding the same treatment for those named

for human rights abuses in ANC detention camps in Angola and Tanzania."

Commission deputy chairman Alex Boraine concedes it may have made mistakes but defends its record. He believes Leon does not appreciate that oral testimony under oath is preceded by lengthy interviews with potential witnesses, their statements recorded, typed out and handed back to them for verification.

When commissioners intervene during a hearing, it's not to lead the witness but to check where his or her verbal evidence deviates from the written statement. The idea is to help them keep "within the parameters" of their written statements. Commissioners do not,

Continued on page 48

commission by its record, not the perceived bias of its members.

He believes that the commission judges victims "by the nature of the human rights violations which they have suffered," not by the political clothes they wear. ■

[Handwritten signature]

nesses testifying about atrocities committed by defenders of the old order vastly outnumber those detailing brutality by the ANC, Boraine agrees there's an imbalance. But he adds that the commission cannot be blamed if most of the victims who want to testify come from one political camp rather than another.

He believes it's "inevitable" that the victims of security force savagery exceed those who suffered at the hands of the ANC because the apartheid State had a vastly superior armoury to that of its opponents.

On whether commissioners' perceived ANC-bias may not deter victims of ANC brutality from testifying, Boraine replied "We didn't choose ourselves. The President chose the commission. I don't know how to respond to that."

He admits that commissioners are pro-human rights and anti-apartheid and thus inclined to sympathise with the struggle against racial oppression.

Boraine invites observers to judge the

Continued from page 44
however, insist that witnesses do so if they want to change their evidence.

On the prediction that the commission won't be able to present "the whole truth," Boraine admits "Of course, we won't." The commission, he stresses, has more modest aims — to present as much of the truth as possible and to work towards acknowledgment by organisations of their contribution, directly or indirectly, to political violence between March 1960 and December 1993.

Boraine identifies July 12 as the start of an important phase in the commission's work — the start of written submissions by political parties giving their perspectives on the violence. He hopes these depositions will acknowledge organisational culpability where it exists and that Inkatha — which has described the commission's work as a "witch-hunt" — will present its interpretation of the causes and course of the violence.

Commenting on allegations that wit-



Alex Boraine

TO CURRENT AFFAIRS

South Africa faces justice crisis

MAG 5-11/7/96

(252)

Dullah Omar has admitted the justice system is in crisis, but he's also upbeat about resolving the problems, report **Gaye Davis, Justin Pearce and Mungo Soggott**

A CRISIS of confidence has hit the South African justice system with threats of unprecedented strike action in the prosecution service, glaring inconsistencies in sentencing and bail and major controversy over the premature release of criminals

The most serious aspect of the crisis is the threatened collapse of the prosecution service which is being strangled by civil-service red tape — preventing the Justice Department from creating new posts and paying senior staff adequate salaries

Senior prosecutors are resigning at an alarming rate. According to the Society of State Advocates, six deputy attorneys general and three senior state advocates have applied for severance packages in the Pretoria office alone

In Cape Town, the attorney general's office is set to lose three senior state advocates, and the Office for Serious Economic Offences another three, while in the Witwatersrand three senior public prosecutors have submitted their resignations

Discontent in the service has been fuelled by resentment at recent salary increases which have put magistrates way ahead of prosecutors, regardless of seniority

The government was able to boost magistrates' salaries because they are independent of the civil service. Prosecution staff up to the level of deputy attorney general are treated as civil servants and subject to the control of the Public Service Commission

White senior prosecutors are taking generous retirement packages — those with 30 years' experience, for example, can leave with over R1-million.

Confidence in the justice system is also being undermined by what are seen as glaring inconsistencies in sentencing policy and the granting of bail to potentially dangerous accused and convicted killers

A striking example recently was the case of Gideon Niewoudt, the security branch officer convicted of the Motherwell bombing in which three policemen and an informer were killed. Niewoudt was sentenced to 20 years. By contrast the young men convicted of the Lusika rape of British and New Zealand tourists — a horrendous crime, but one which involved no loss

of life — got between 17 and 23 years. Resentment at the Niewoudt case was compounded by the fact that the security branch officer was released on R50 000 bail pending appeal, despite the fact that he was a convicted murderer

The Niewoudt case follows a string of instances where potentially dangerous criminals have been released on bail pending trial — on the grounds they are "innocent until proven guilty" — despite the threat they pose to the lives of victims and witnesses

The perception that the state is being "soft" and less than even-handed in dealing with criminals also came into focus this week with the release of Greg Blank, after serving less than two years of an eight-year sentence, and Abdul Bhamjee who served less than five years of a 14-year sentence

Minister of Justice Dullah Omar conceded the existence of a crisis in the system this week. "We inherited a system in crisis and we are dealing with it," he told the *Mail & Guardian*.

Omar was speaking hours after an urgent meeting on the subject with Minister of Safety and Security Sydney Mafumadi, Correctional Services Minister Sipo Mzimela, Minister of Defence Joe Modise and Deputy Minister of Intelligence Joe Nhlanhla

Predicting that the salary problems in the prosecution service would be dealt with "within a year or so", Omar warned prosecutors that they would have to "take the consequences" if they went on strike

He would ask Cabinet to approve the delinking of state prosecutors from the public service which would free him to act on salary grievances. Salaries set by the Public Service Commission (PSC) were "too low". Minister of Public Administration Zola Swkeyiya was trying to

address this through "rightsizing" the public service but "it takes time and we can't wait", Omar said. "Professionals are not being remunerated as such and this needs to be addressed"

Omar said he was seriously concerned about the flight of senior skilled prosecutors. His path to redressing the situation was blocked by the Constitutional Court challenge to the new Constitution by attorneys general who were opposed to the proposed National Directorate of Public Prosecutions on grounds that it would interfere with their independence

"Once the

Constitutional Court challenge has been decided and I know where I stand, I will proceed with legislation and argue my case with the support of Parliament," Omar said

"Delinking is the way forward and by saying so [state prosecutors and advocates] will help me fully sympathise with their plight."

He said he had tried to get approval for the move but it had been opposed. It had been easier to argue successfully for the delinking of magistrates and the judiciary on grounds of judicial independence, he said

Omar is likely also to appeal to Cabinet to make more money available for the criminal justice system. The PSC had approved 50 senior prosecutor posts but the treasury had refused the funds, he said

But he was confident salary problems would be dealt with. Omar said Cabinet this week approved a series of Bills he'd brought, including one providing for a major crackdown on corruption within the justice system itself

Instead of the commission President Nelson Mandela said he would appoint to investigate corruption — including that which took place under the National Party — it had been decided to legislate, to give the probe real teeth, Omar said

Next to a Bill that would streamline criminal procedure and make courts more efficient the Institution of Special Investigation Units and Special Tribunals Bill was the most crucial of those approved, he said

The tribunal's first focus would be on rooting out corruption in the courts and police force

Omar said he was transforming the court management system so that the country's 540 magistrates' courts were managed in clusters of 40 to 50 rather than from Pretoria. Chief and senior magistrates would form management teams responsible for staffing, training and ensuring better co-operation between the courts, communities and the police

He conceded that newly appointed prosecutors lacked experience and said planning for a nation-

al training programme funded by the Canadian government was in its final stages. "I am trying to develop national solutions that would impact on every court in the country," he said

He rejected charges that affirmative action appointments were seeing people promoted beyond their capacity, resulting in inexperienced prosecutors appearing against seasoned lawyers and losing cases they should not.

"We have appointed a number of blacks but they are as competent and as incompetent as whites," Omar said. "I do not think people have been promoted above their competence but bringing 11 departments together and addressing discrepancies does take its toll and has created a strain on the system as a whole"

"Delinking prosecutors and advocates is central to resolving the problem"

He said ministers at Wednesday's meeting discussed the role of national intelligence in cracking down on crime syndicates involved in drug trafficking, gun-running, car hijackings and money laundering

Deputy Minister of Intelligence Joe Nhlanhla had tabled the national crime prevention strategy at a meeting with his counterparts from Southern African Development Community countries with a view to building a common approach, Omar said

Other new Bills approved by Cabinet included several allowing for greater international co-operation in tackling crime and making extradition easier. The Proceeds of Crime Bill would allow for property and other illicit gains to be confiscated

Liaison between his ministry and those of safety and security and correctional services was tight, he said

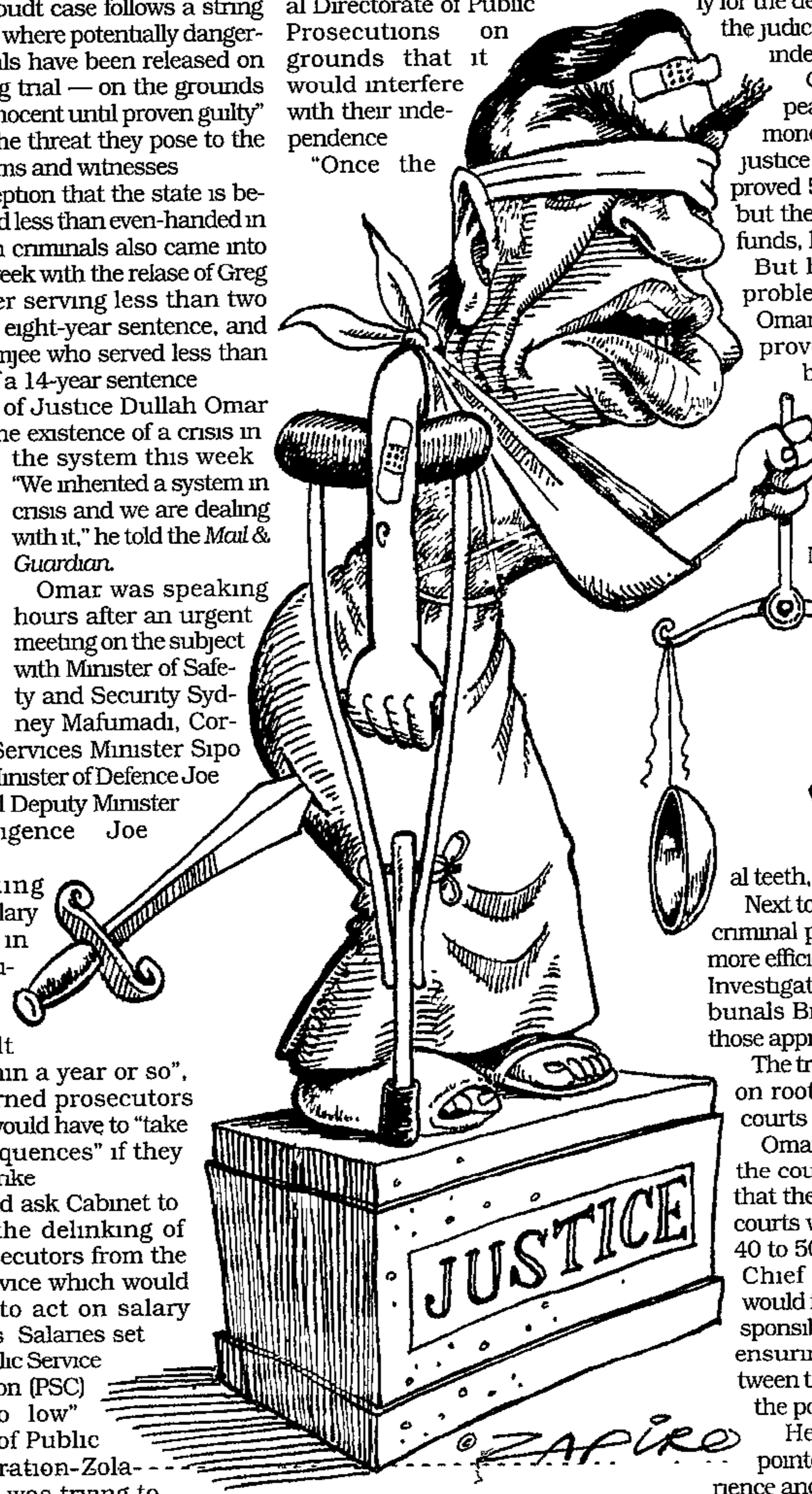
"The ministers are working very closely together, there's a realisation we can't pass the buck. We have all inherited problems and the financial constraints hit us all equally"

It had been decided they would work on a joint budget for the next financial year, he said

"The national crime strategy is not just a piece of paper," Omar said. "We are putting in place measures which never existed before. You don't see many tangible results immediately but many things are happening at different levels"

New legislation was part of a comprehensive assault against crime, he said

"The priority is effective action against corruption within the criminal justice system itself, which is undermining the whole process"



'I am trying to develop national solutions that would impact on every court in the country'

POLICE INKED TO 1987 BOMBING

MTG 5-11/7/96

(252) (S)

A huge explosion which injured 70 people in July 1987 and was blamed on 'ANC terrorists' was almost certainly the work of the police.

Rehana Rossouw reports

A bomb which former state president PW Botha described in July 1987 as a "callous act committed by terrorists under the godless control of communists" was almost certainly the work of the police

This is revealed in a letter to the Truth and Reconciliation Commission from a lawyer inquiring about amnesty for his 22 policemen clients. Some of the incidents the letter lists as covered by indemnity include horrific acts of urban terror

And investigators presently unravelling the dirty tricks of the former government say there are many more acts of terrorism blamed on the African National Congress which were committed by the security forces, in particular by the police

"White South Africans are in for a terrible shock, they are going to have to rethink much of their recent history," one investigator said this week

Minutes after a massive explosion at the South African Defence Force command centre at Joubert Park on 30 July 1987 which injured 70 people, including five soldiers, the National Party government placed the blame on the ANC

Then-state president PW Botha was widely reported in the media hysterically condemning the bombing as a "dastardly and callous act committed by terrorists under the

control of godless communists" The minister of law and order Adrian Vlok also immediately blamed the ANC

The Joubert Park bomb was placed in a truck and left a crater more than 2m in diameter after it exploded. Shock waves blew out windows in buildings four blocks away

It came at the time when Frederick van Zyl Slabbert was in Dakar, Senegal, meeting the ANC. Botha used the blast to appeal to all South Africans to "stand together against these forces of evil and not to associate with them in any way whatsoever"

Advocate Jan Wagener wrote to the truth commission last week on behalf of 22 clients. He listed 18 incidents which would be dealt with in their amnesty applications

The list includes the deaths of Piet Ntuli in KwanDebele in 1986 and of lawyer Bhekri Mlangeni in 1991. The disappearance of the three Port Elizabeth activists known as the "Pebco three" is also listed

Other deaths include Brian Nqulunga in 1990, Moses Ntshlang at Vlakplaas in 1991, Japie Ma-

PW Botha: Blamed 'godless criminals'



ponya, an ANC member, at Mahikeng in 1985, nine ANC members in KwanDebele in 1988, nine ANC members in Bophuthatswana in 1988, Joe Jele in 1986, a policeman and his wife at Hammanskraal in 1988, Jeffrey Sibya in Bophuthatswana in 1987, Harold Setola, Andrew Makupe and Jackson Maake

The list also includes "persons injured and killed during attacks on

the homes of members of the South African Police due to faulty hand-grenades and a lampet mine"

Explosions at the ANC offices in London are included, as well as explosions in Bophuthatswana, Mamelodi, Atteridgeville and Pietersburg in 1987

Wagener says in his letter that indemnity was granted during 1994 to 3 500 members and ex-members of the police in terms of the Indemnity Act of 1990

"Although this indemnity has been questioned by certain people, including the present minister of justice, we are of the view that it is legally sound and valid," he wrote

"I will in due course provide you with full particulars in this regard and, if necessary, motivate the said validity

"Should you, however, after considering all the facts, come to the conclusion that the indemnity referred to cannot be recognised by you, my clients who are affected thereby are prepared to apply anew for amnesty, provided that the same principles will apply in respect of members of the ANC and other parties who also obtained indemnity in terms of the same provision in 1990 and 1994

Wagener said incidents which were covered by the indemnity included the bombing of Khotso House (in August 1988), Khanya House, Cosatu House (December 1991), a community centre in Cape Town (1987), a counsellors' hall in Soweto, power substations in Sandton and

Randburg, and damage caused to houses of ANC members

Truth commission spokesman John Allen said it was regrettable that the details of the letter emerged in the media before Wagener received a response from the commission

"There has been a response since, but we are not releasing its details to the media," Allen said "People should be able to apply for amnesty as individuals. Forms are available and they are welcome to fill them in"

ANC spokesman Rohmne Mamoepa said the information in Wagener's letter was "nothing new. We think there is much more than meets the eye, there is more that should still be disclosed by the police"

Mamoepa added that the disclosures vindicated the ANC's submissions to the truth commission and testimony from witnesses already presented to the commission

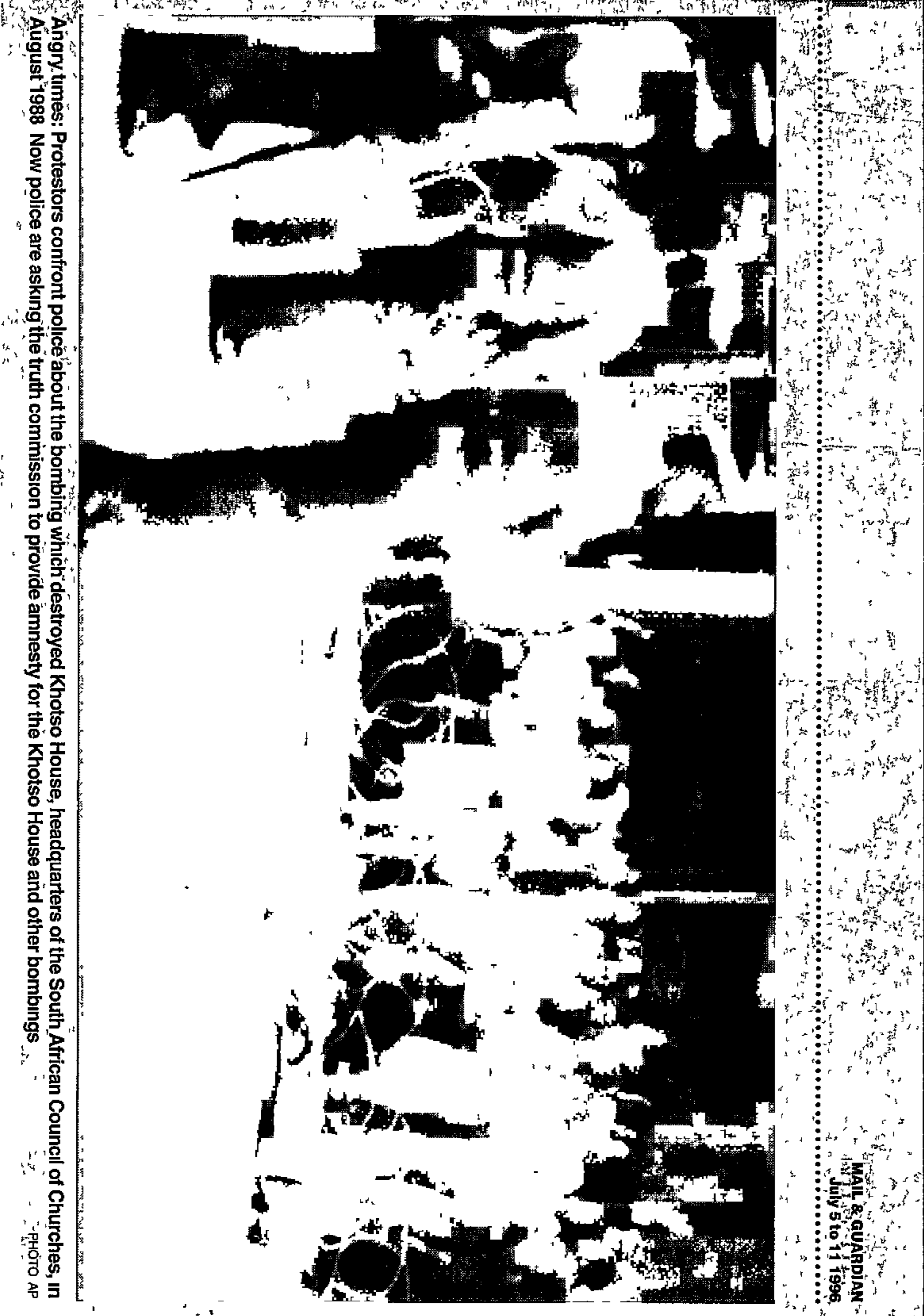
The ANC is sceptical about whether the disclosures will change the impressions of many people who firmly believed during the 1980s that it was responsible for every activity the government blamed on the organisation

"There will always be people who believe we were responsible for every necklace murder and every bomb blast in which civilians were injured," said Mpumalanga Premier Matthew Phosa, who was the ANC's secretary of intelligence between 1990 and 1994

"Those people are in for a surprise I wouldn't be surprised if former government agents took responsibility for ever more incidents"

Phosa slammed the media as well as the government in its reporting during the 1980s. "The truth is finally catching up with them," he said

MTCF 5-11/7/06 (252)



Angry times: Protestors confront police about the bombing which destroyed Khotso House, headquarters of the South African Council of Churches, in August 1988. Now police are asking the truth commission to provide amnesty for the Khotso House and other bombings.

PHOTO AP

MAIL & GUARDIAN
July 5 to 11 1996

Human Rights Commission swamped by petitions

(252) MTG 5-11/7/96

Justin Pearce

ASCHOOLTEACHER seeking paternity leave, a group of prisoners claiming to have been assaulted and a schoolboy defending his right to have long hair are among the stories told inside the cardboard folders stacked on the desk of Human Rights Commission (HRC) member Pansy Tlakula.

Upstairs in the stately Houghton office suite occupied by the commission, the chairs are empty but the trays are already overflowing. Hundreds more files await the attention of the HRC's legal department once its staff assume their posts in August.

Nine months after the inaugural meeting of the HRC, the commission is still ploughing through the red tape involved in approving civil service appointments. It took six months for the commission to move into permanent offices, and even longer to connect the phones.

The HRC may lack the public profile enjoyed by the Truth and Reconciliation Commission, yet the inquiries have come in faster than the wheels of bureaucracy have turned.

"I was finding myself driven by complaints and not able to do anything," Tlakula recalls. Since then, the HRC has concentrated on the urgent cases while it waits for its staff to arrive — an early success was when the commission mediated the racial conflict over Hoërskool Vryburg.

Another emergency case involved a complaint from inmates at Krugersdorp prison, who said they had been assaulted by racist warders.

While the allegations are being investigated, the HRC obtained an under-

taking that the prisoners who laid the complaint would not be victimised by being moved to another prison as has happened in similar cases

"Prisoners have all that time to write letters," Tlakula remarks with a wry smile, but she and her colleagues are taking the issue seriously. The volume of letters from prisoners — 80% of them alleging racism, according to Tlakula — has prompted the HRC to launch a national inquiry into prison abuses rather than follow the intricacies of each case

Similarly, the HRC puts a high priority on cases that will set precedents. Among them is the case of a Western Cape schoolteacher who applied for paternity leave since his self-employed wife could not leave her business after the birth of their child. Denied leave by the provincial education department, the teacher approached the HRC on the grounds that the department's policy of granting parenting leave only to mothers was discriminatory.

Tlakula speaks with equal patience, though less passion, about the boy from the North West who complained that his school principal's insistence that he get a haircut was an infringement of his rights

"We talked to him and tried to persuade him he was in matric and next year he could grow his hair as long as he liked."

Talking and persuading are to take much of the HRC's time as the commission's work gets under way — Tlakula explains the intention is to take the path of mediation before invoking the HRC's powers of investi-

gation, including the right to subpoena witnesses.

Government inquiries are the most frustrating: "They will acknowledge receipt of your letter, say it has been referred to the appropriate department — and that's it," Tlakula says.

But, she adds, "people become very co-operative when we point out it is an offence to get in the way of our duties".

Once the new staff fill the echoing offices, their first task will be to sort out which cases are appropriate. The HRC is often mistaken for the truth commission, the public protector's office, the industrial court and the Citizen's Advice Bureau. A glance through the letters awaiting attention reveals many that are outside the HRC's ambit, dealing with apartheid-era abuses, government inefficiency, unfair dismissals and even consumer complaints.

Most common among these are the past abuses, which belong with the truth commission. Since the HRC was established as a watchdog over the Bill of Rights which came into effect on April 27 1994, it cannot take on any cases from before then. Since the truth commission deals only with cases from before December 1995, there's a tricky three-month grey area in the middle.

It was during that interregnum that rightwingers manned a roadblock and attacked black motorists, killing one of them. The father of one of the victims claims the police ignored a complaint by another driver who was attacked several hours before the fatal incident.

Just who will deal with that conundrum will be decided later. When the staff arrive

Vigilante groups did govt's dirty work

(252) CT 5/12/98

BLOEMFONTEIN Vigilantes in the Free State, even

in the other parts of South Africa, were helping the state to restore order, says a report by **ROGER FRIEDMAN** writes.



Institute of Race Relations statistics

THE slaughter of those opposing apartheid continued through the 1980s, but the nature of the violence changed fundamentally in the middle of the decade with the rise of the vigilantes — South African contras.

The Bureau for Information called it "black-on-black violence," broadcasting images of crowds, stone-throwing, and flames into the nation's living-rooms each night. Senseless destruction, inexplicable savagery, disorder, the absence of reason or intelligent purpose.

"I am going to keep order in South Africa and no one is going to stop me keeping order," then State President PW Botha told the nation on the 6pm news in March 1985, against a backdrop of an unruly mob amid billowing smoke.

In 1985 security force action accounted for half of all unrest fatalities and conflict within black communities for about one-third. In 1986 the positions had reversed, according to SA

Formal methods of repression like detentions and use of the courts are closely paralleled by a number of 'informal' practices designed to intimidate, inhibit, and on occasion eliminate political opposition," wrote (the late) Dr David Webster in his chapter on repression and the state of emergency in the South African Review Four

"Both formal and informal repression share one characteristic. Their targets are anti-apartheid activists. They differ in that the former is carried out officially and openly by the security forces, the latter usually not — the link to the authorities is often shadowy or even untraceable. Vigilante groups are most often responsible for informal repression."

Writing in War and Society. The Militarisation of South Africa, Johannesburg lawyer Mr Nicholas Haysom suggests the use of vigilantes was a

direct response to the state's failure to "restore order" to the townships

"By mid-1985 it became apparent that the state's initial response to the civil rebellion — maximum force policing — was failing. That grizzly index of 'unrest', the daily death-rate, had not been affected by the proclamation of the state of emergency. Moreover, the policing methods had further politicised the black community and created a degree of social cohesion among township residents.

"What was needed was an additional disorganising strategy. Vigilante groups were specifically suited for such a purpose."

Groups of vigilantes sprang up across the country, targeting people perceived to be resisting apartheid — from students opposed to Bantu education to those who opposed the community council or homeland systems. Many seemed to enjoy the explicit support of the security forces. Some used municipal facilities, and others were afforded official recognition by the government as "community guards". On its travels through the country

these past few months, the Truth and Reconciliation Commission has heard shocking stories from victims of vigilante violence perpetrated by Witdoeke in Cape Town, Amasolomzi in Ashton, Amabutho in Durban

But, if the commission's hearings can be used as a yardstick, nowhere were vigilantes better organised or more pervasive than in the Free State. Before 1984 there was little organised resistance to apartheid in this province. Matthew Chakalson and Jeremy Seekings write in Political Conflict in South Africa. "The past protests by women in Bloemfontein in the 1920s were the last well-known instance of organised black political protest in the region."

Welkom, Parys, Kroonstad, Brandfort, Virginia — each town had its own group of vigilantes. On Wednesday the commission heard from several victims of violence allegedly perpetrated by The Eagles in Brandfort. The Eagles was a youth club established by the state. According to then-President FW de Klerk in 1991, the club was established "for scholars to be



educated in principles of personal discipline and security without militancy"

Yesterday the commission learnt of the Three Million Gang, active in Kroonstad from 1985

Mrs Martha Thupe testified about the killing of her husband, Jacob Mogorosi Thupe, in March 1985. She knew members of the Three Million gang were responsible, but knew very little about the aims and organisation of the group.

"It was a group of people who were violating the community. It was a group of hoodlums who were attacking people. They got my husband, and they stabbed him to death."

Mrs Nomthandazo Qozo related the killing of her son Thabeng Rasentsoere in June 1990. She called the police, but they only arrived the following day. When they did, she said, they kicked her dead boy in the head, joking about the fruits of supporting the ANC.

"At the time I had not noticed any relationship between the police and the Three Million. We only noticed this later because the corpse was taken away by the police and we expected them to take statements and investigate. But we had to take the initiative of going to report he had been killed by the Three Million. Since then we have heard nothing."

Omar bids for better pay deal for law men

CT 5/7/96 (252)

PRETORIA Fearful of the threatened exodus of state advocates and prosecutors, Justice Minister Mr Dullah Omar has called for their delinking from the public service.

Expressing concern at the prospect of large numbers of legal staff leaving the Department of Justice due to poor salaries and increases, Mr Omar said he intends seeking cabinet approval



for the separation of all persons involved in the administration of justice from the civil service

Transvaal attorney-general Dr Jan d'Oliveira welcomed this approach. He said Omar has gone to considerable effort to achieve a better dispensation for lawyers but his hands were tied by the system.

Omar said the issue needed urgent review. "Whilst the department has been able to negotiate better pay for magistrates, this has not been possible for prosecutors as they are tied to the civil service" — Own Correspondent

PAY FIGHT: Mr Dullah Omar

Law societies to lift veil of secrecy

Deborah Fide

AT LEAST 185 attorneys had been subjected to disciplinary action this year and three provincial law societies had rules enabling them to disclose the names of those found guilty of serious misconduct, the Transvaal, Cape and Natal Law Societies said yesterday.

Other complaints to be investigated by the societies were pending.

Although the Cape and Transvaal societies still decline to name all the attorneys found guilty by disciplinary committees, some of the secrecy surrounding disciplinary hearings has been lifted.

The Natal Law Society has opened its disciplinary hearings to the public and the press on condition that proceedings will not be made public until a finding has been made.

Cape Law Society director Susan Aird said yesterday her organisation had undertaken to publish the names of attorneys found guilty of offences warranting disciplinary committee

Continued on Page 2

Law societies (252)

Continued from Page 1

finer of more than R500. In addition it would publish the names of those who had been suspended or struck from the roll for serious misconduct.

The society did not consider it necessary, however, to make known the names of those found guilty for the first time of misdemeanours such as the failure to respond promptly to law society correspondence or timeously submit trust account audits. "It would not

serve the public interest to publish these names because these attorneys are not a risk to the profession and do not impair the service rendered by the profession," she said.

Transvaal Law Society president Eame du Plessis said her organisation also published the names of attorneys suspended or struck from the roll, and had the discretion to disclose the names of those guilty of more serious offences if it was in the public interest.

Both Aird and Du Plessis stressed that wayward attorneys constituted only a small percentage of the law societies' about 8 000 members.

Security and defence ministries agree to make submissions to Truth Commission

(252)

The departments of safety and security and of defence will make submissions to the Truth and Reconciliation Commission about their roles in past human rights violations, commission chairman Archbishop Desmond Tutu said yesterday

After meeting Safety and Security Minister Sydney Mufamadi in Pretoria, Tutu told reporters he was delighted with the co-operation he had received from both departments.

Mufamadi said the submis-

sions would help to give South Africans a correct picture of the role of his department in past events

"We must expect that there will be something the current leadership of the SA Police Service, the ministry and previous leaders will be able to say," he said

Mufamadi added that his ministry could now give details of the steps it had taken to ensure such violations did not recur "We will provide the com-

mission the opportunity to assess these steps and advise us on what more needs to be done to ensure that we uphold the culture of human rights "

Tutu commended the Safety and Security Ministry for granting the commission access to its documentation

Mufamadi said the ministry shared the commission's concern about files which had disappeared An inventory of all missing files was being studied.

Mufamadi said a date for the

ministry's submission to the commission had not been set

Asked about his meeting with Defence Minister Joe Modise in Pretoria earlier in the day, Tutu said "That went well too "

He said the Defence Ministry had also agreed to make submissions and had undertaken to improve liaison channels with the commission

"We will be meeting as soon as possible with the minister . . . to work out procedures to access information," Tutu said - Sapa

Stan 6/7/96

Four brothers to apply for amnesty from Truth and Reconciliation Commission

2527
1996

Four brothers, all of them fully fledged members of the Afrikaner Weerstandsbeweging led by Eugene TerreBlanche are among six prisoners whose applications for amnesty will be heard by the Truth and Reconciliation Commission's amnesty committee

between July 15 and 19 in Pretoria.

The committee said in a statement yesterday that six of the prisoners, who were tried in two phases in the Transvaal Supreme Court, were serving sentences of between 13 and 20 years.

Henrik Gerber and Johan Andre van Eyk were convicted of the murder of Samuel Kgama and sentenced in February 1993. Gerber was given 20 years imprisonment and Van Eyk 15 years.

The other case involved the four Van Straaten brothers, all AWP members, who were convicted of murder and robbery and sentenced on May 14 1991.

From July 22, the amnesty committee will hear applications from prisoners in Kroonstad in the Free State - Sapa-

Prosecutors' pay 'injustice'

(252) ARK 6/7/96

■ Anti-crime strategies will come to nothing unless something is done to correct the salary imbalance between magistrates and prosecutors, says Cape Attorney-General Frank Kahn.

LINDSAY BARNES
Staff Reporter

THE top-sided salary adjustment between magistrates and prosecutors was a "grave injustice" and may cause irreparable damage to the judicial system.

That's the view of Western Cape Attorney-General Frank Kahn, who was speaking yesterday on the eve of a strike threatened by prosecutors in Gauteng.

He warned that a strike would have dire consequences on the judicial system and would bring the courts to a halt.

It is believed that Gauteng prosecutors will hang up their gowns from Monday in protest at their increase, which was minuscule in comparison to that of magistrates.

The situation had reached boiling point, said Mr Kahn. He slated the widening gap between the salaries of magistrates, some of whom got as much as a 140 percent increase, and senior public prosecutors, who were given a 16 percent rise.

The high-minded anti-crime strategies which have recently been unveiled would amount to nought unless the

Police Gerald Morkel announced a strategy of "all-out war" against crime but said it would not be successful without the full co-operation of all government departments.

Meanwhile, Mr Kahn said state advocates in his office were not only better qualified than magistrates, who could sit on the bench with a mere Diploma Juris, but also worked far harder and much longer hours, he said.

"The argument that there should be a wider gap between the two is farcical," he said.

Prosecutors were the key in the judicial process between the courts, the police and the community.

"They are required to be courteous to the public, give legal advice to the police and prepare court roles after hours every evening, while sightings of magistrates in the garden, on the golf course or on the squash courts after 5pm are notorious.

"How President Mandela can expect Justice Minister Dullah Omar to effectively administer justice while making the prosecutorial arm the most poorly paid job in the legal profession is beyond me.

"My greatest concern is that unless prosecutors are paid and treated like



City court gets R7m revamping

PAUL OLIVIER
Staff Reporter

CAPE TOWN'S magistrates' court is being revamped at a cost of more than R7 million, a long overdue step welcomed by the city's law fraternity.

They described the building as "hopelessly inadequate and an embarrassment to the legal profession and the public it serves."

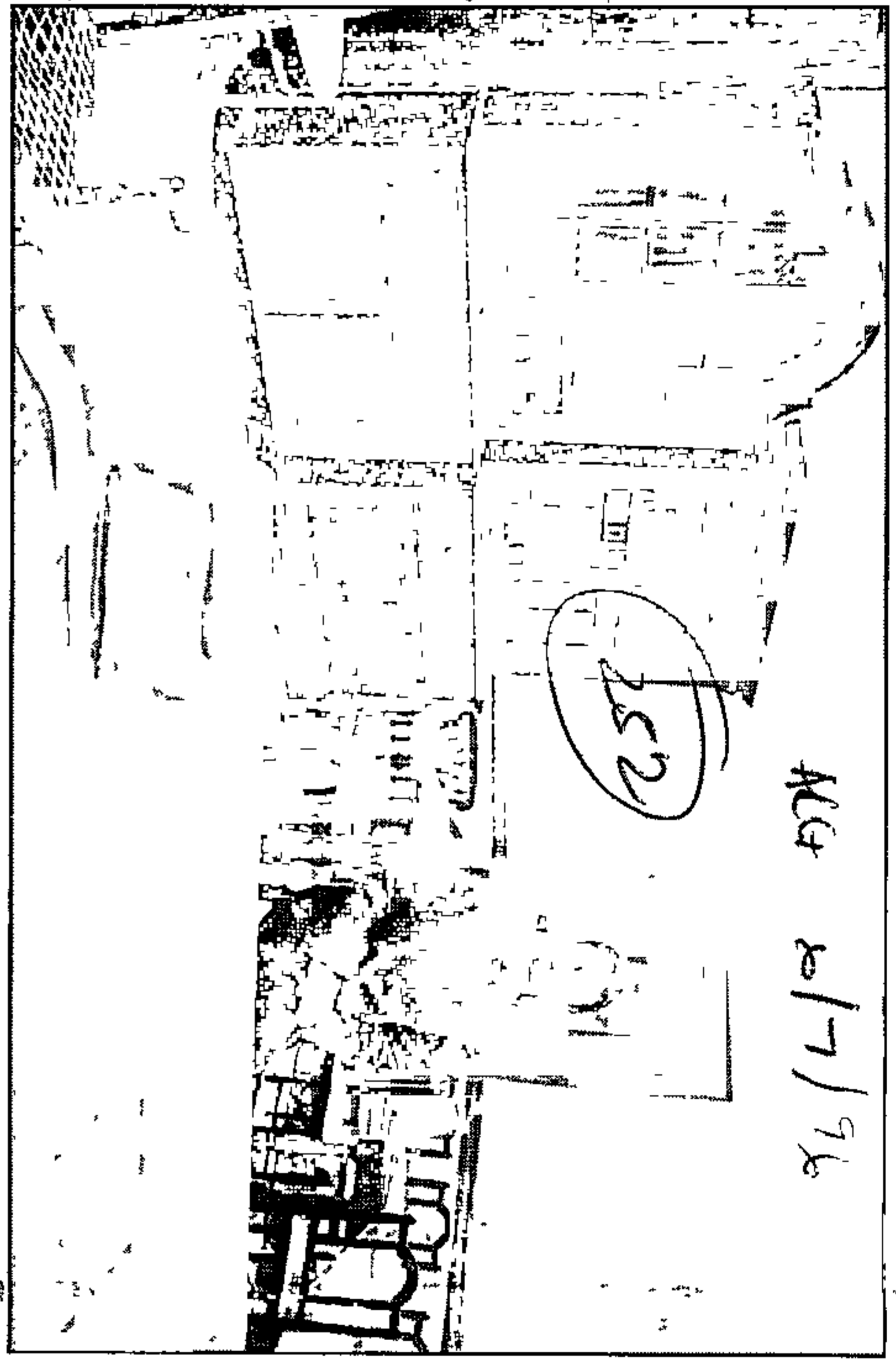
The money was made available by the Department of Public Works and was not derived from the judicial budget.

Sporting a newly marble tiled floor and shape-like ball-like light fittings hanging from the ceiling, the main hall is a far cry from the cold and gloomy place it used to be. Included in the facelift is the installation of sophisticated computer equipment, air conditioning and a complete make-over of the holding cells and court rooms.

All the courtrooms are being fitted with carpet tiles, making them attractive, warm and enhancing acoustics.

Antique furniture, long forgotten in dusty storerooms, have been restored. They include stinkwood tables, chairs and other pieces of value, now adorning offices.

For the first time the needs of the disabled and elderly have been taken into account by the installation of lifts, waiting rooms and modern washrooms. Fresh water dispensers will be available at strategic points in addition to cold



□ **RESTORED:** Gillian Raynders with some of the antique furniture, including yellowwood and stinkwood items, found in storerooms at the Cape Town Magistrates Court

drink vending machines. Smoking will only be allowed in demarcated areas.

Computers are being installed and fitted with modems to enable the public direct access to information by personal computer and to allow for the issuing of electronic summonses. Information will soon be accessible by telephone, effectively ruling out unnecessary visits to the court, saving time and money.

"The magistrates' court has not kept track with development," said chief magistrate Bertus Jooste, "and structures and norms have for long been obsolete. Known as a cold and unfriendly place, it was a disgrace to the law and an insult to the people it served."

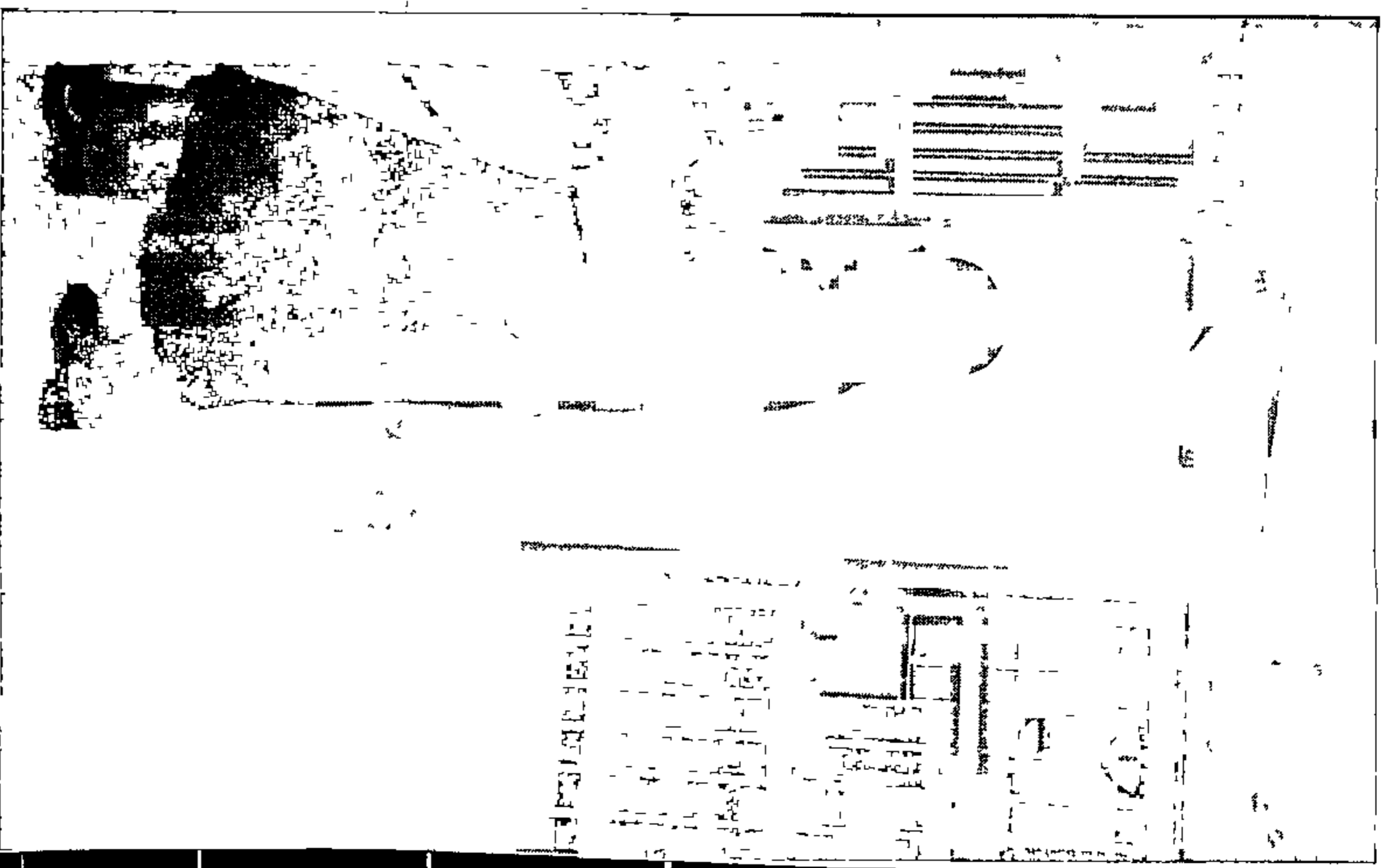
"Just thinking of the conditions of the holding cells made you shiver. They were totally unsuit-

ed for human use and were high on our list of needed changes.

"These disgusting conditions were endemic to the previous political dispensation which developed a strong criminal arm to protect their interests, neglecting the interests of the public and the servants of the law. Under the new government we as managers are being consulted for the first time and allowed inputs on grassroots level."

"Thanks to Justice Minister Dullah Omar we might soon have an effective, efficient and affordable justice system."

"For the first time working conditions are satisfactory. The upliftment of the magistrate's court will do much for the image of the law," Mr Jooste said.



□ **UNFIT CELL:** The cells at Cape Town Magistrate's Court have been described as "unfit for human use."

Ministries plan reports for TRC

AR 6/19/96 (252)

JOHANNESBURG - The government departments of Safety and Security and Defence would make submissions to the Truth and Reconciliation Commission about their roles in past human rights violations, commission chairman Desmond Tutu said.

After meeting Minister for Safety and Security Sydney Mufamadi in Pretoria yesterday, Archbishop Tutu told reporters he was delighted with the co-operation he had received from both departments.

Mr Mufamadi said the submissions would help give South Africans a correct picture of the role and place of his department in past events. "We must expect that there will be something the current



Desmond Tutu

leadership of the SA Police Service, the ministry and previous leaders will be able to say," he said.

Mr Mufamadi added his

ministry now had the opportunity to detail the steps it had taken to ensure such violations would not happen again.

"We will provide the commission the opportunity to assess these steps and advise us on what more needs to be done to ensure we uphold the culture of human rights," he said.

Archbishop Tutu commended the safety and security ministry for granting the commission access to its documentation.

Mr Mufamadi said the ministry shared the commission's concern about files which had disappeared, adding an investigation was in progress. An inventory of all files, indicating how and why they went

missing, was being studied. "You can rest assured that we are keeping the commission informed of everything in this regard," he said.

Mr Mufamadi said a date for the ministry's submission to the commission had not been set.

Asked about his meeting with Minister of Defence Joe Modise, in Pretoria earlier in the day, Archbishop Tutu said "That went well too."

He said the defence ministry had also agreed to make submissions and had undertaken to improve liaison channels with the commission.

"We will be meeting as soon as possible with the minister to work out procedures to access information," he said - Sapa

THE judges of the Constitutional Court are facing what may prove to be the most important decision of their lives: to certify the new Constitution or send it back to the drafters for another try.

The task is so important that Judge Richard Goldstone, who has been prosecuting Bosnian war criminals and has not yet taken up his seat on the court, temporarily returned to Johannesburg from The Hague to join his colleagues in hearing the case.

It began this week with three days on the contentious problem of provincial powers. But woven into the court's questions to the parties presenting arguments was another theme — an attempt to unravel the exact nature of the judges' power in the certification exercise.

They have been asked to certify whether the Constitution satisfies the principles which were attached to the interim constitution at the Kempton Park negotiations.

It is the biggest logistical challenge of the court so far. About half of the 70 individuals, parties and organisations who made written representations have been invited to present additional oral argument, scheduled to run for two weeks.

But the judges cannot approach the job like high school maths teachers marking exam scripts. Many of the constitutional principles they must consider are imprecisely or ambiguously worded.

Judges began grappling with the nature of the decision from the first moments of the case.

During the opening remarks of George Bizos SC, leader of the legal team appearing for the Constitutional Assembly, court president Arthur Chaskalson commented "But aren't we also asked to decide a political question? Or are you saying that whenever there is a conflict the court must defer to the Constitutional Assembly?"

He took as an example Constitutional principle III which says, among other things, that the Constitution must promote national unity.

"Is it left to the judgment of the court whether a particular clause in the proposed text will bring about unity? Or is it something which the Constitutional Assembly must decide?"

"What troubles me is understanding how we are to approach inherently political questions," he said. His deputy president, Ismail Ahomed, suggested a metaphor which as used several times during the ensuing debate "The constitutional



CARMEL RICKARD reports on the awesome challenge facing the learned people on the bench of South Africa's first Constitutional Court

Judging the

CONSTITUTION



POLITICAL POSER... court president Arthur Chaskalson

principles are the lights of the runway within which you operate the plane," he said. "You (the Constitutional Assembly) choose the speed and the angle, but it must be between the lights."

The interim constitution says a new constitutional text shall not become law "unless the Constitutional Court has certified that all the previous comply with the Constitutional Principles." But judges' questions throughout the week showed their struggle to define their exact role, and how far they may go in making what must inevitably be a political decision.

Legal representatives of most parties that were drawn into this debate with the judges.

They discussed what the court's approach should be if a clause in the Constitution is capable of several interpretations, including one which would fit in with the Kempton Park principles and enable the Constitution to be certified, and another which would be contrary to the principles and thus cause certification to be refused.

Which interpretation should the court favour? Should it send the Constitution back, on the basis that the court cannot certify an ambiguous text? Should it give the clause the interpretation which satisfies the principles and then certify the text, building into the judgment its particular construction of the ambiguous clause? Would it be legally permissible for the present judges to try to bind a subsequent court to their view?

(252) S17/196

The judges also asked how bad the text would have to be before they should refuse to certify the Constitution. Would any little inconsistency suffice or would there have to be a grave departure? Should they look at the Constitution as a whole, or should each clause have to satisfy the test?

They are also aware that if the text is not certified, and the court identifies the unsatisfactory clauses, it might not be a simple matter to correct. While the parties could agree to fix the problems isolated by the court, dissenters among

them might take the opportunity to reopen old debates and try to re-draft contentious clauses.

The case has been no less instructive about the political role played by the parties contesting or supporting the new Constitution.

The ANC is notably absent from the official fray. It gave formal notice that it identified with the position of the Constitutional Assembly, in whose name the application for certification has been made, and would not present separate argument.

This may save the party legal fees, but it blurs the distinction between the assembly and the ANC. Senior party advisers have been constantly in court and during adjournments confer with the legal team presenting the case for the assembly.

There are moments during argument when the other political parties attack part of the proposed text with particular vigour, that it seems to be an ANC document rather than the product of inter-party negotiation. Most consistently opposed to the text

is the Inkatha Freedom Party. Its own proposed constitution, dealing with the province of KwaZulu Natal, was considered by the Constitutional Court last week in a case which Bizos characterised as "net practice" for the current national certification exercise.

The IFP has taken a shotgun approach in its objections, firing at the broadest possible range of clauses. Its written representations run to more pages than any other and are almost as long as the Constitutional Assembly's argument in favour of the text.

The IFP has been absent from the assembly for some time and is overtly hostile to the resulting text. For many reasons, it would be in the party's interest for the text to be turned down. It would legally vindicate its walk-out from the assembly and give it a face-saving device for returning to the table to discuss a revised text. If the IFP's proposed constitution for KwaZulu Natal is also turned down, at least the score would be even.

Its objections to the proposed provincial arrangements outlined in the new Constitution reflect the IFP's strong provincial base and long-held desire for far greater powers of autonomy.

During the KwaZulu Natal case last week, Judge John Dikotit commented that provisions in the IFP's provincial constitution requiring all citizens to defend the province sounded like the legitimisation of armed secession. This week, commenting at the end of

the IFP's presentation on provincial powers, Bizos read from a book on secession which said that in the case of some parties, it was difficult to be sure whether they were driving for secession or merely greater autonomy. He added "It is not out of place to remind the court that the pretensions in some of the provisions of the KwaZulu Natal constitution fall into this category."

The National Party's objections reflect different considerations.

Its written argument begins by expressing regret that its comments on the text must necessarily be couched as objections. The impression is that the party was in two minds about its approach and whether it should intervene in the certification process.

The NP supported the Constitution throughout the negotiating process and voted in favour of it. Some members, deeply involved in the negotiations, must feel the text is partly their "baby" and must be reluctant to disown it with overt criticism.

On the other hand, the party's new status as opposition, and its provincial power base in the Western Cape, have nudged it into opposing the final text, albeit on a few carefully selected grounds, chiefly provincial powers and the labour clauses.

The Democratic Party, by contrast, has no provincial power base to promote or defend although, like the NP and the IFP, it objects strongly to the provincial clauses.

It participated fully in the Constitutional Assembly debate, and voted in favour of the text, but throughout the process gave notice of its concern over particular clauses.

Its objections appear to reflect the party's concern with adequate checks and balances on central government, and its insistence on appointment mechanisms to key posts which will allow these checks on power to operate effectively.

The African Christian Democratic Party's objections are less easy to characterise. Its chief objection is that the words "In humble submission to almighty God" have been left out of the preamble.

The party's Kurt Worrall-Clare said this discriminated against the Christian majority since it removed the influence of Christian religious law from the Constitution. The ACDP believes Christian law should play as big a role in interpretation as African customary law.

Asked what Christian religious law he was talking about, Worrall-Clare replied "Orthodox, canonised, Mosaic law, the law of Abraham."

with the other hand, the right to intervene is retained. And I speak as a one-handed person."

George Bizos SC on language rights "Telugu was probably developed before the English language."

Judge Mahomed: "Long before."

Judge Krieger: "As was the Greek language."

Bizos: "I want to keep Greek out of it so that I don't have an argument with the deputy president about who came first."

Chief Mwele Nonkonyana, asking the court to correct mistakes in his written argument: "Rule should read 'role'."

Judge Arthur Chaskalson: "A Freudian error?"

Nonkonyana: "The constitutional principles are very clear. There is nothing ambiguous about them."

Judge Mahomed: "I could have been fooled!"

Judge Sachs: "If the Senate is really, as you say, a rubber stamp — and I do not mean to be disrespectful of them — how can the powers of a rubber stamp be reduced?"

Judge Ismail Mahomed after hearing counsel's explanation of a clause, the words of which did not make sense to him "Why couldn't the drafters have said that?"

Wm Tringove SC: "I wish they had said a lot of things which they didn't." (This was greeted with nervous laughter from drafters who were in the court.)

Judge Mahomed on a clause allowing certain action if it is in the interest of national security: "In the bad old days all kinds of roads were made on the liberty of people because it was said to be 'in the opinion' of someone I am most anxious to avoid repeating this."

Judge Mahomed on constitutional provisions for co-operation between provinces and the central power: "I think it is apple pie."

Judge Johann Krieger: "It is not apple pie if it is moonlight and roses."

Judge Albie Sachs on IFP objections: "One of your major complaints is that much is given to provinces with one hand and

Courts face crisis as prosecutors start work-to-rule action

Star 8/7/96 (52) (252)

STAFF REPORTER

Gauteng prosecutors embarked on a work-to-rule policy from this morning and gave Minister of Justice Dullah Omar until July 19 to announce wage increases or face possible strike action

Already hard-hit by resignations and overburdened officials, the courts could grind to a halt if prosecutors carry out the threat to

work only during office hours, not take dockets home and not consult witnesses after office hours

The action was announced at a weekend meeting of the SA Prosecutors' Association in Pretoria and the 300 delegates called on prosecutors in other regions to support the action in solidarity with their Gauteng colleagues

A Western Cape correspon-

dent reports that prosecutors in that province are understood to have joined the campaign today

The campaign follows anger over the disparity in increases for magistrates and prosecutors, as Omar announced last week that magistrates were to receive increases ranging from 20% to 171%

State advocates - also angered by the huge disparity - will de-

cide on Friday whether to strike, work-to-rule or declare a dispute

Last week, Western Cape Attorney-General Frank Kahn slammed the widening gap between the salaries of magistrates and those of senior public prosecutors and said that if prosecutors refused to work longer than normal hours, the courts would face a crisis

JAILED BROTHERS APPEAL

Six right-wing killers apply for amnesty

(252)

8/7/96

MMBATHO Six right-wing killers, including four brothers, and five black prisoners have applied to the TRC for amnesty. **ROGER FRIEDMAN** reports.



SIX right-wing killers, four alleged AWB-loving brothers among them, have applied to the Truth and Reconciliation Commission for amnesty and will have their cases heard in Pretoria next week.

The Van Straaten brothers — Adriaan, Willem Jakobus, Gideon and Dawid Petrus — will be joined in their application by Hendrik Gerber and Johan Andre van Eyk.

The commission's Committee on Amnesty has met just once before. It has yet to decide whether to grant amnesty to the two men who killed a senior member of the Bafokeng tribe, the head of the Tribal Council apparently installed by former Bophuthatswana president Mr Lucas Mangope.

Amnesty committee spokesman Mr Sello Rabothata said yesterday the six right-wing applicants were tried in two cases heard by the Transvaal Provincial Division of the Supreme Court.

Grobler and Van Eyk were convicted of the murder of Mr Samuel Kganakga and sentenced in February 1983. Gerber was jailed for 20 years and Van Eyk for 15 years.

Rabothata said the Van Straaten four did not disclose their victims' name in their amnesty applications.

They were alleged to be supporters of the AWB and were convicted of murder and robbery. Sentenced in May 1991, Willem Jakobus van Straaten was imprisoned for 15 years and his brothers for 13 years.

The AWB was one of 70 right-

wing groups identified in the early 1990s by Pretoria risk consultant Mr Wim Boooyse, who conducted a study of the phenomenon. The 70 comprised 15 cultural/political organisations, two women's groups, seven churches, four political parties, eight paramilitary groups, 28 fundamentalist organisations, four trade unions and two dormant organisations.

Booyse divided them into three broad categories: the fringe groups, the neo-Nazi groups and assorted reactionary groups with names like the Order of Death, the White Wolves, the Transvaal Separatists and the Jackals.

Mr Eugene Terre' Blanche's AWB was at the forefront of what was sometimes described as a Boer jihad. "We have never been forgiven for bringing God's light into dark Africa. Our nation is hated because we have a contract with God," he once said.

After Pretoria, the Committee on Amnesty moves to Kroonstad the following week, where seven applicants serving sentences in the Kroonstad prison will have their say.

Five prisoners will appear in connection with a single case involving the murder of an alleged vigilante leader, Mr George Ramasimong, in Kroonstad.

Ramasimong was said to be a member of the Three Million Gang, one of many vigilante groups set up in the mid-1980s, who appeared to work closely with the police in trying to quash anti-apartheid resistance.

The five applicants are Roland Roy Petrus, Joseph Molefi Tshukudu, Machabe Petrus Thulo, Nthabeleng Simon Bothetsa and Paseka Johannes Mpondo.

Petrus was the commander of a self-defence unit in Kroonstad. It is alleged that the unit was established to counter a Three Million Gang hit-squad put together by the police, and the then mayor of Madreng township, Mr Caswell Koekoe.

Two other cases will be heard in Kroonstad: those of Thamsanqa David Jackson and T E Moalosi.

Jackson, who killed a policeman, will claim that he was taking part in a demonstration against a dairy farmer who watered down his products when he was threatened by the policeman.

The next day the policeman accosted him again, and threatened him with a firearm. A struggle ensued and the policeman was shot dead.

Jackson will claim the incident was politically motivated because had he not been part of the demonstration he would not have been threatened by the policeman.

Moalosi was a prominent member of the South African National Civics Organisation (Sanco) and an ex-policeman. He is serving a sentence for malicious damage to property, attempted murder and attempted robbery.

He was involved in protest action against the local administrator in the area of Mmamahabane near Ventersburg, and was arrested for taking part in a sit-in at the local authority's offices.

The Committee on Amnesty alone decides whether to grant amnesty.

To qualify for amnesty, applicants have to comply with a number of criteria laid down in the Promotion of National Unity and Reconciliation Act.

Prosecutors' protest could cripple courts

LINDSAY BARNES
Staff Reporter

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SOME Cape Town prosecutors are understood to have embarked on a campaign today in which they are refusing to work overtime. **ARG 8/7/96**
Confirmation of the protest action, which threatens to cripple the courts, is expected later today.

It would appear that Justice Minister Dullah Omar's meeting with prosecutors in Durban in an attempt to solve the current pay crisis had little effect in the Western Cape.

Last week, Western Cape Attorney-General Frank Kahn slammed the widening gap between the salaries of magistrates and senior public prosecutors and said that if prosecutors refused to work longer than normal hours, the courts would face a crisis.

Some magistrates received up to 140 percent increases, whereas prosecutors were given 16 percent raises.

Department of Justice chief liaison officer Pieter du Rand confirmed the minister had met prosecutors to discuss their grievances. He said it had been decided that a committee of prosecutors would be formed to look at problems in each province and to provide the minister with a full overview.

The minister is to take the matter up with the cabinet.

Prosecutors start work to rule today

BO 8/7/96 (252)

Stephané Bothma

PRETORIA — Gauteng prosecutors will follow a work-to-rule policy from today after giving Justice Minister Dullah Omar an ultimatum to announce salary increases before July 19 or face possible strike action.

"Failing an announcement to the satisfaction of prosecutors by July 19, a ballot will be taken from prosecutors countrywide in order to determine a course of action," the SA Prosecutors' Association said at the weekend.

A meeting, attended by about 300 prosecutors and representatives of the State Advocates' Association, was held on Friday to discuss salary increases for prosecutors following Omar's announcement last week that magistrates were to receive increases ranging from 20% to 171%.

"Work to rule means that we will not take any dockets or work home anymore

"We will no longer consult witnesses outside official working hours and will spend no time at our offices after hours as our workload forces us to do almost daily," an association member said yesterday

Prosecutors in other regions were asked to follow suit as a sign of solidarity with their Gauteng colleagues.

State advocates will meet again on Friday to decide whether to strike,

awork to rule or declare a labour dispute with a demand for immediate relief regarding their remuneration packages, Society of State Advocates' chairman Rheta Meintjes said

She denied allegations from the justice ministry that the crisis facing the department was a political one.

"It is not because of a new government system and is not coming from the so-called old-school," Meintjes said.

She said the action was a culmination of dissatisfaction over salaries that had built up over several years.

A survey conducted last year showed that State advocates were paid about 70% less than their colleagues in private practice.

"Already in 1993 the possibility of strike action, due to the totally inadequate remuneration packages, was considered by the society, but then rejected on grounds of professional ethos," she said.

Meintjes rejected any argument that the justice department lacked resources to increase prosecutors' salaries "taken into account the millions granted to magistrates, attorneys-general and judges".

She said the society felt betrayed by the justice director-general, who had misled all prosecutors into believing that there would never be a disparity between salaries for magistrates and the prosecution.

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Political role in judicial appointments queried

Susan Russell (252) PD 8/7/96

A POLITICAL element in the appointment of the judiciary did not undermine the bench's independence, counsel for the Constitutional Assembly, Wim Trengove, said in the Constitutional Court on Friday.

He was responding to complaints lodged by magistrates, Transvaal attorney-general Jan d'Oliviera and the Association of Law Societies that provisions in the final draft of the constitution for the appointment of judicial officers did not sufficiently safeguard the independence of the judiciary, violating the constitutional principles agreed on by the negotiating parties at Kempton Park.

D'Oliviera contended that the manner in which a new national director of public prosecutions would be chosen amounted to a political appointment.

It was submitted that both the principle guaranteeing an equitable legal system and a separation of powers between the legislature, executive and judiciary were infringed by the constitution.

Trengove, however, said that some of the world's leading democracies allowed a political role in the appointment of judicial officers.

The court's deputy president, Judge I Mahomed, asked him if this was not what the country wished to move away from, as judges had in the past been appointed by the justice minister and the executive. "That is why we now have the judicial service commission," said the judge. "The whole idea was to get away from political control."

Trengove said the system had been abused and that the exclusion of a political element was not a necessary ingredient of judicial independence.

"I am not convinced of that," Mahomed said. Referring to D'Oliviera's objections to the appointment of a single prosecuting authority, Trengove said the fact that the director would be appointed by the president, as head of the national executive, in consultation with the Cabinet, did not mean that the position or the manner of appointment was political. This was the same authority that appointed the chief justice and constitutional court president.

Labour needs 'broader social base'

Ranee Grawitzky PD 8/7/96

LABOUR'S future depends on it becoming part of a broad-based social movement which exerts political and shopfloor pressure to improve and spread the benefits gained by members to the broader working class.

This is the view argued by National Union of Mineworkers Carletonville regional co-ordinator Frans Baleni in the latest edition of the SA Labour Bulletin.

Baleni said conditions for broader communities could be improved via equitable distribution within the economy, with clear government intervention to ensure economic growth. This had to be achieved through the extension of public ownership.

Labour had to ensure, through exercising political pressure, that

government was involved in every stage of the restructuring process.

He pointed out that unions were not political parties and to exercise political pressure, they would have to "ally themselves with a political party."

Baleni said the current alliance with the ANC and SACP should continue, but warned that in the long run it could change.

"Unions must be aligned in one form or another to whichever emerges as the primary political representative of the working class."

However, this did not imply unions that should not jealously guard their independence. "There are times when it will be necessary to oppose government — the struggle over privatisation is a case in point."

Labour, to move towards becoming a social movement, had to develop and adopt strategies to address broader societal problems that had emerged as a result of apartheid, rather than pursuing narrow sectional interests.

This view was based on the belief that if unionists pursued narrow sectoral interests only, this could lead to the alienation of other deprived groups in society, "not organised and who do not have the collective strength of workers."

Such an approach should, he said, be pursued by labour in order to prevent a split between urban and rural communities, where rural communities became alienated from their urban counterparts.

They might then "ally themselves with anti-trade union elements" — as had occurred in Tanzania during the 1960s.

Kwazulu-Natal Bills on traditional leaders upheld

Susan Russell PD 8/7/96

THE Constitutional Court has upheld two Kwazulu-Natal Bills which make it the responsibility of the province to pay the Zulu king and other traditional leaders.

In what was a unanimous judgment, court president Arthur Chaskalson dismissed an ANC application to have provisions of the Kwazulu-Natal Amakhosi and Iziphakanyiswa Amendment Bill and Payment of Salaries, Allowances and Other Privileges to

the Ingonyama Bill declared unconstitutional.

The Bills provide for traditional leaders to be paid by provinces only, not central government.

Dismissing the ANC's application, the court held that because laws dealing with the appointment and powers of traditional leaders were within the authority of the provinces, legislation providing for their remuneration was within the ambit of that power.

Chaskalson noted that the national and proposed provincial

legislation were not so much concerned with the fixing of salaries and allowances, but with who had the right to pay traditional leaders.

"It is unfortunate the Kwazulu-Natal conflict has degenerated to a state in which this should have become an issue," said the judge. Traditional leaders could serve their communities best if not dependent — or perceived to be dependent — on political parties, or on national or provincial governments, he said.



Truth needed about the

Reconciliation does not come by individualising collective systemic responsibility, writes Jakkie

(252) Star 9/2/96

Cilliers

With some of the public hearings now behind us, it is time to look at the real contribution that the Truth and Reconciliation Commission (TRC) can make to the future of reconciliation

Apartheid was an institutionalised system of racial oppression which led to many bitter and tragic abuses

Whether directly ordered or not, it is apparent that members of the Security Force (the Security Branch apparently more than most) murdered, tortured and maimed dozens, perhaps hundreds, of opponents of apartheid

In return, having tried most forms of non-violent protest and having been denied all other forms of agitation, the ANC and PAC embarked upon a slowly escalating strategy of violence to fight the system, until the social tide of collective black anger in Soweto in 1976 and beyond engulfed the country

Means and ends became merged and intertwined. But the simple questions remain: Who suffered most - the mother whose son was gunned down in Sebokeng when he threw stones at the police, or the father

who had to witness his daughter die in the Winterveld without food because of Group Areas relocation? Or the innocent person who just happened to pass by when the Church Street bomb detonated in Pretoria?

Do political correctness and direct intervention reduce either guilt or pain? Is murder committed in defence of an unjust system less serious than the death of a child caused by institutional system of social engineering? I think not

The TRC simply cannot hold the few members of the Security Forces who committed clearly identifiable crimes responsible for a system. What about white business which often exploited the skewed system for financial gain?

Or the homeland leaders and officials who benefited so greedily from the gravy train, misusing their position for private gain when their people suffered in poverty?

What about the bureaucrats who administered the apartheid system, ran the pass laws, staffed the jails, set minimum wages, drew up the legislation? And what about the families who paid their gardeners and maids, poverty wages because supply so

drammatically outstripped demand? Are we going to try all these crimes in public? Are we going to find a way of giving expression to the pain and suffering that a system caused to millions of South Africans?

It is exactly because of this dilemma that the TRC is floundering, not certain if it should also look at the role of the judicial system and of the media during recent decades. Clearly if we try and individualise systemic collective guilt within the context of a negotiated settlement we stand to destroy reconciliation

In fact, what constructive future purpose does a commission serve which attempts to pin the responsibility for a social plan on select foot-soldiers, leaving the architects of repression to languish in parliament or at home in the comfort provided by a fat pension? What do we achieve for our future common destiny in this country by reliving, through the very subjective eyes of the victim, the brutality of one individual against another?

There is a way through which we can reconcile what happened in our country with the requirements for building a unified, prosperous society. I believe there is a just, systematic and constructive way to do

this - but then we have to look carefully at the TRC

First, we need to study and document the effects of apartheid as a system, not only on an individual basis

We need to quantify and qualify the costs and dangers of racism and abuse of power and systematically document our recent history. This can be done relatively inexpensively since the source material is available

Second, we need at every secondary educational institution to teach the basic tenets of our constitution, the bill of rights, how our government works, about civic duties and good citizenship. We need to instil in people not their rights but their obligations to pay tax, not to litter, to obey the rules of the road, to be fair, to work hard and to accept responsibility for their own actions

Reconciliation for the future will not come by itself. It requires structures and processes to make it work and to give it meaning. Indulging in endless self-pity and recrimination is a meaningless exercise without an action plan for the future - an action plan built on non-racism and reconciliation, not on guilt and racism

Already the TRC has split our society, with black and white opinion on the utility and nature of the process markedly different from one another. Perhaps we still need the Truth and Reconciliation Commission

Murder is murder and a government and its officials who act criminally must be brought to book. Both a person who plants a bomb in which innocent civilians die as well as the policeman who tortures and

system

Dr Jakkie Cilliers is the director of the Institute for Defence Policy

Truth commission hears of police, UDF violence

By Robert Brand

Minabatho - Repression in the former Bophuthatswana and rough justice meted out to suspected collaborators with Lucas Mangope's government came under the spotlight at a Truth and Reconciliation Commission hearing at the University of the North West yesterday. Among the 10 witnesses was Dikeledi Moret from Tlabane, Rustenburg, who related how her husband Daniel Moret, a 5-year-old child and two others, suspected of being "terrorists", were

killed during a raid on her house by Bophuthatswana police in 1985. They said the two boys who were in my house were terrorists, but they killed innocent children like Ronne (Mamatela), who died at the age of 5," she said. But it became clear from the evidence that violence did not come only from one side. Pulane Mabalané related how her 16-year-old daughter, Frida, was killed on suspicion of being an "umpimpi" (informant) from UDF-aligned youths from Huhud, near Vryburg, stabbed

her, then made her swallow petrol before hanging her from a tree and setting her alight. Badly burnt, Frida managed to reach her home. She could not talk "because her tongue was hard from the burning," Mabalané said. She died in hospital the next day. Frida was a United Democratic Front member, but her friendly relationship with her uncle, a policeman, aroused her comrades' suspicions. Frida's surviving sister, Joyce, who was present at the hearing and scheduled to give evidence, collapsed during her mother's testimony and was removed from the hall on a stretcher. Another witness, Evelyn Thumyiswa, said she was arrested while on her way with other school-children to Steve Biko's funeral in 1977. Members of the former SAP applied electrodes to her private parts. "It felt like my kidneys were coming out."

Star 9/17/96

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THE FREE PRESS

TRC law drafters may find outcome

Morality has not been the motive behind the probing into amnesty, writes Helen Grange



The whole business of amnesty is akin to throwing dice

Whichever way they fall, there will be winners and losers. We can only hope the outcome will be palatable, particularly to the victims

This is partly due to the fact that what was intended by the drafters of the Truth and Reconciliation Commission (TRC) legislation has not unfolded as planned, neither from a legal nor from a moral perspective

The first obstacle in the way of the amnesty process emerged when Azapo and families of victims of human rights violations challenged the constitutionality of amnesty in the Constitutional Court

David Sogot, SC, on behalf of the fam-

lies, sought to have the TRC's power to grant amnesty overturned on the grounds that guilty parties, while indemnified from criminal liability, could not be absolved from civil liability - and nor could the State absolve itself of legal responsibility for agents' crimes

The action was seen by some of the judges as an exercise in self-annihilation, pointing out that should civil claims be possible, perpetrators would simply not come forward at all

A ruling on the matter has yet to be made

Yet, as the maxim goes, truth is stranger than fiction. Despite this undecided state of affairs, other legal forces have prompted 22 current and former police officers to enquire about amnesty

Political crimes for which they are reportedly willing to accept joint responsibility in exchange for amnesty include the car-bomb destruction of the SA Council of Churches headquarters at Khotso House in the late 1980s, the 1985 murders of three Port Elizabeth activists known as the Pebco Three and the bombing of a Randburg power station

Morality has not, however, been the motivation for this probing. It is, to all intents and purposes, a strategic move designed to pre-empt a rash of potential prosecutions

On the back of this, the trials of former Vlakplaas commander Eugene de Kock and security policeman Gideon Nieuwoudt - along with their own desire for freedom - constitute a veritable time-bomb for the 22 police officers, and no doubt many others

(252) Shaw

The Constitutional Court's ruling on amnesty, even with a finding that victims can litigate for compensation, is at most a subordinate consideration for perpetrators clinging precariously to the last veil of ob-

security

Conversely, the TRC's Amnesty Committee is now faced with the dilemma of whether it can grant criminal amnesty for collective responsibility or individual culpability. Aside from the likely political machinations, there appear to be grounds for dispute over this question arising out of the TRC legislation

The Centre for Applied Legal Studies in Cape Town, supporting the Azapo application in the Constitutional Court, argued that the constitution mandated the State to grant

9/12/96

In terms of international law, a state is not permitted to indemnify itself

Our legislation, however, does indemnify the State against civil liability in respect of crimes for which amnesty has been granted - and the court will either accept or reject this in its ruling. There are other apparent anomalies in the TRC legislation which may give rise to further challenges

In the latest attorneys' journal *De Rebus*, lawyers Tefo Radtapolle and Anton Steenkamp post a lack of clarity concerning the nature of acts for which amnesty can be granted

Both the constitution and the act refer to "gross violations" of human rights, and there is a provision in the act mentioning acts "associated with a political objective" but there is no clear link between the two

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NATIONAL PROTEST AT PAY HIKE

Prosecutors work to rule

29/7/96

(252)

JOHANNESBURG: Prosecutors in six provinces are confining their work to office hours in an attempt to pressure Minister of Justice Dullah Omar to announce a better pay deal by July 19, failing which they may go on strike.

PUBLIC prosecutors have adopted a nationwide work-to-rule policy, applying the brakes to the country's already slow-moving wheels of justice

The campaign, launched in Gauteng, has been joined by prosecutors in the Northern Cape, North Western Cape, Eastern Cape, Northern Province and Free State

Those in the Western Province and KwaZulu-Natal are expected to join today, according to Mr Blackie Swart, chairman of the Prosecutors Association of South Africa (Pasa). Prosecutors were meeting in Cape Town and Durban yesterday

The work-to-rule means thousands of court hours will be lost before July 19, when prosecutors may launch a nationwide strike if Minister of Justice Dullah Omar has not by then announced salary increases

Prosecutors would no longer be satisfied with vague promises and it was up to Omar to influence the Minister of Finance to step in before July 19, Swart said. A national ballot would determine whether prosecutors would strike

Mr Brink Ferreira, speaking on behalf of prosecutors at the Johannesburg Magistrate's Court yesterday, said state-paid attorneys would no longer prepare for cases at home,

work overtime or perform practical duties to help speed up court sessions

The Department of Justice's chief liaison officer, Mr Pieter du Rand, confirmed that the minister had met prosecutors to hear their grievances. It had been decided to form a committee of prosecutors to look at the problems in each province and give Omar an overview

The issues are to be reviewed urgently and Omar is to take the matter up with the cabinet

Although prosecutors had pledged to continue co-operating with the police and serving the public to the best of their ability, they would appear in court only once their preparations for cases, made during office hours, had been completed, Ferreira said

This meant the number of productive court hours and cases finalised in the next nine working days would drop considerably

If just one hour a day was lost in each of the 60 criminal courts in the Johannesburg area, this would add up to a loss of 12 court days, Ferreira said

The work-to-rule policy had been adopted after about 300 of Gauteng's 400 prosecutors met in Pretoria on Friday in response to the "gross disparity" in the pay increases for mag-

istrates and prosecutors announced by Omar on the first of this month, he said

Prosecutors were granted a 10% raise and magistrates, whose salaries had been on a par with those of prosecutors, 59% on average, with some magistrates taking home increases of 171%

Ferreira said that an effect of the disparity would be that experienced prosecutors would apply for magistrates' positions, weakening an already junior and overworked team of state attorneys

Swart said prosecutors had been represented by the Public Services Association at central bargaining wage negotiations. Prosecutors had been unable to make individual submissions

When the time came to consider the proposed average 10% increase, Pasa had felt as though a gun was being held to its head, Swart said

Other public servants' organisations had wanted to accept the offer. Pasa had feared that if the negotiations went to arbitration, the increase would be lost altogether, Swart said

The Society of State Advocates is to decide this Friday whether to join the work-to-rule

Its chairman, Ms Retha Meintjies, has said that state advocates feel betrayed by the justice department as it led prosecutors to believe there would not be a disparity between magistrates and prosecutors' salaries — Own Correspondent

State calls in services of private advocates

ED 9/7/96 (252)

Stephané Bothma

PRETORIA — The justice department is to hire advocates in private practice on contract to help with prosecutions. Their fees will be more than R50 000 a year higher than the salaries of the best-paid State advocates.

The move is yet another slap in the face for underpaid State advocates, who are to meet on Friday to discuss action to protest against the 20%-171% salary increases recently announced for magistrates.

In an urgent notice to the Society of Advocates, department director-general Jasper Noeth said the appointment

of outside advocates to help attorneys-general with prosecutions had been approved. Suitable advocates identified by the society would be appointed on one-year contracts at R183 000 a year "excluding VAT". The advocates, released from the bar for one-year periods, would report to attorneys-general.

Deputy attorneys-general, the highest-paid prosecutors in the department's employ, earn R131 000 a year.

A department spokesman said Noeth's move was in line with Justice Minister Dullah Omar's decision to try to alleviate the shortage of experienced staff. The advocates' society had offered assistance by agreeing to release

advocates from the bar to the department on a contractual basis, he said.

Society of State Advocates chairman Rheta Meintjes said a statement would be issued once members had discussed the department's decision.

Twenty-one senior State advocates had applied for severance packages. Meintjes warned that the low salaries paid to overworked State advocates would result in a further exodus of advocates from the department.

Prosecutors in Gauteng's lower courts adopted a "work to rule" policy yesterday after telling Omar to raise their salaries by July 19, or further protest action would be considered.

Truth commission amazed at depravity

(252) BD 9/7/96

MMABATHO — The first witness at the truth commission's sitting in Northwest yesterday testified that her daughter was stabbed and burned by a group of people in November 1985.

Pulane Mabalane said her daughter Frida, a pupil at John Frylank higher primary school, was stabbed in the left side by someone called Zero Thebe.

She was then forcefully removed from her mother's house by a group of people who later burned her.

Frida, who had been an active member of the United Democratic Front and was 16 at the time, came home screaming and crying after the incident. She was then taken to hospital in Kimberley, where she died.

Frida's sister, Elizabeth Dlamini, was overcome by emotion and could not give evidence.

Mabalane called on the commission to bring the perpetrators to book.

Another witness, Andries Kgobadi, said he had been arrested by the police in connection with Frida's death, although he never knew who she was.

Police, including two called

Strydom and Brand, had arrived at his house, kicked open the front door and taken him to the police station. A pillow case was placed over his head, he was sprayed with teargas and suffered electric shocks.

Kgobadi said he was innocent of any wrongdoing, but had been taken to court and sentenced to two years' imprisonment for public violence.

The electric shocks, which had been applied to his ears, left him with a hearing difficulty, he said.

He wanted the commission to give him compensation.

The sitting got off to a late start because the first witnesses had to travel about 150km from the Vryburg area.

Commission chairman Archbishop Desmond Tutu said commissioners were amazed at the depth of evil that human beings could descend to on all sides of the struggle.

He was also amazed at the willingness of victims to forgive.

He hoped perpetrators would also come forward to confess and ask forgiveness. — Sapa.

Private sector joins in new medicines distribution plan

BD 9/7/96

Kathryn Strachan

THE Northern Province has launched a bold new medicines distribution plan to reduce the millions of rand lost nationwide each year through the wastage and theft of medical supplies.

The new project will train selected hospital staff responsible for the handling of medication and surgical supplies and provide a data base to monitor the prevalence of disease and medical problems in a given location, encompassing all 43 hospitals in the Northern Province.

Provincial health MEC Joe Phaahla said the venture was the first in which a provincial authority was in partnership with the private sector to facilitate faster and more efficient distribution of vital medical supplies.

"This new venture will see our private sector partner, Stratmed, procure medicines and surgical supplies for the

province from more than 200 suppliers." Stratmed would then store and distribute the medicines and use information technology to keep a close check on the medicines.

Phaahla said the province was committed to improving health services by cutting wastage and theft — but in ways that empowered communities.

An important aspect of the R100m tender awarded was its commitment to in-house training and bursary programmes for hospital staff.

Phaahla cited disturbing statistics from the national auditor-general's office showing that SA lost R500m worth of medication through theft annually.

Stratmed MD Don Sutherland said delivery within 48 hours of placing an order would ensure cuts in warehouse and hospital thefts and costs, help aid more careful supply monitoring and "ensure that the freshest stock is used to increase patient safety".

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Constitutional body argues against special case for Bill of Rights

(252)

Star 10/7/96

By **PATRICK BULGER**
Parliamentary Correspondent

The constitutional principles did not demand extraordinary protection against amendment for the chapter on the Bill of Rights contained in the new constitution, the Constitutional Assembly argued yesterday.

Counsel for the Constitutional Assembly, Wim Trengove, SC, said the principles called for the Bill of Rights to be entrenched in the same way as the rest of the constitution. The constitution can be amended only by a two-thirds majority of the National Assembly. Two clauses, the one dealing with amendment procedures and the other with the founding provisions that inform the rest of the document, require a 75% majority for amendment.

Trengove said objectors to the constitution wanted the Bill of Rights to enjoy a deeper entrenchment than the rest of the text. This was not required by the principles, he argued.

The arguments were heard in the Constitutional Court, where the judges are considering whether to certify or reject the constitution on the grounds of its compliance or non-compliance with the principles decided on at the Kempton Park talks in late 1993.

Peter Leon, for the Association of Law Societies, argued that the death penalty, which is forbidden in terms of the Bill of

Rights, could be reinstated "in six months' time" by a resolution of the National Assembly.

Mr Justice Albie Sachs said the Bill of Rights was entrenched and that it was justiciable, which meant any legislation which opposed fundamental rights could be measured against the constitution's provision of that right. Leon said the Bill of Rights should enjoy more than "flimsy protection".

Asked by Mr Justice Tolie Madala what "fortifications" he would be happy with to protect the Bill of Rights against amendment, Leon replied that if the Namibian practice of not allowing any amendments was not followed, then the National Council of Provinces should also have to assent to any amendment.

Trengove argued that even if a 90% majority was required to amend both the text and the Bill of Rights, this would not satisfy the objectors.

Earlier, the Afrikaanse Handelsinstituut took issue with the constitution's provision that municipalities could exercise an unrestricted right to levy "excise taxes". Arguing for the AHI, T van Wyk said he agreed that municipalities needed an independent revenue base to bolster their accountability and activities. If by "excise taxes" was meant a surcharge on water and electricity provided by a local government, the AHI would accept that.

The proceedings continue today.

Courts in disarray as backlog grows

(252)

(RD) *Sowetan* 10/7/96
Work-to-rule action by prosecutors
in Gauteng enters third day

By Josias Charle and
Mongadi Mafata

THE industrial action by Gauteng prosecutors enters its third day today, throwing the courts into disarray and increasing the mounting backlog of cases

The work to rule started on Monday with prosecutors demanding that salary adjustments granted to them be equal to those of magistrates

The Prosecutors' Association of South Africa, which claims national membership of 700 prosecutors, has given Justice Minister Mr Dullah Omar until July 19 for a decision on salary parity between magistrates and prosecutors

A total of 120 court working days will be lost as a result of the

action, which has received support in six provinces

The Department of Justice announced last month that prosecutors would receive an average salary increase of 13,78 percent, while magistrates would get an average rise of 50 percent. These adjustments were implemented on July 1

Work to rule

At a meeting held by 300 Gauteng prosecutors in Pretoria last week, it was decided that they would work to rule and that they would not do overtime - for which they are not paid

Senior state prosecutor at the

Johannesburg Magistrate's Court Advocate Brink Ferreira yesterday said that nearly 44 prosecutors resigned last year citing salary and work condition grievances

"We urgently need to address this brain drain which has already affected my staff's morale," Ferreira said

Chairman of the Prosecutors' Association of South Africa Mr Blackie Swart yesterday reiterated his organisation's stance

"Even though we don't want to inconvenience the public, we don't want empty promises as we have legitimate needs. We want a firm commitment from the Justice Ministry," Swart said

Omar condemns courts disruption

(252)
CT 10/7/96

PRETORIA: The disruption of courts by prosecutors and state advocates was unacceptable, Justice Minister Mr Dullah Omar said.

He was reacting yesterday to the work-to-rule protest action by prosecutors in Gauteng and Northern Cape.

Society of Advocates chairwoman Ms Retha Meintjies also announced yesterday that advocates involved in prosecution were considering joining prosecutors in their protest against salary disparities in the Justice Department.

The advocates are to meet on Friday to decide on the issue.

The protesting prosecutors are demanding higher salaries in line with the pay increases recently granted to magistrates.

Omar said here yesterday that although the salaries of prosecutors and state advocates needed to be addressed urgently, he lacked the power to negotiate their salary packages as this was the domain of the Central Bargaining Chamber.

He said he had already announced that legislation was

envisaged to remove state advocates and prosecutors from the ambit of the civil service.

The department was also exploring short-term solutions such as overtime pay. Talks between his department and the Public Service Commission over salaries were continuing, he said.

Omar said it would be impossible to do anything before the July 19 deadline set by the prosecutors, when they will decide on whether to embark on a full-blown strike.

He said the prosecutors had accepted the salary increases awarded to them and had only objected after the increase to magistrates had been made known.

A spokesman for prosecutors at the Johannesburg Magistrate's Court said Witwatersrand courts were disrupted yesterday by the prosecutors' work-to-rule plan.

They claim that given the long working hours, their pay is well below that of people doing equivalent work in the private sector.

About 300 prosecutors are said to be taking part in the action on the Witwatersrand — Sapa

New vision for administration of justice aims to change

(252)

Stephané Bothma

PRETORIA — A new vision for the administration of justice, including far-reaching changes to bail and parole policies, and intended to make justice practically accessible to all, was unveiled by Justice Minister Dullah Omar yesterday.

One way of winning the public trust in the administration of justice was to involve communities in the processes of law, according to the justice department's Vision 2000 draft strate-

gic plan for the transformation and rationalisation of justice.

The lack of legal representation for the majority of South Africans is undoubtedly the major flaw in the administration of justice, the document said.

In 1994 more than 80% of people accused in criminal trials were without legal representation.

The plan envisages development of a cost-effective and equitable framework for State legal aid and improved use of paralegal structures.

Use of plain language in statutes

and court proceedings, as well as end-users' first languages, is mooted.

To ensure access to justice in civil matters, complicated rules of procedure will be reviewed to ensure simplicity, less expense and fairness.

The paper envisages the harmonisation of all laws with each other and the constitution. This includes religious and customary laws.

The department believes prosecutors should be enabled to help the court impose sentences, attorneys-general should have the right to appeal on mer-

it against acquittal, witnesses should be allowed to give evidence in bail applications involving serious offences and communities should be involved through panels of assessors — in consideration of bail applications.

The paper also suggests developing a policy whereby parole is invoked only when a prisoner has served a substantial part of his sentence, that presiding magistrates and judges be involved in parole proceedings, that an inter-ministerial mechanism be formed to oversee parole, that attorneys-general be

bail policies

BS 10/7/96

served with parole applications, and that the power to grant parole be vested in an independent parole board.

Ensuring uniformity in sentencing, increasing the criminal jurisdiction of district and regional magistrates, reviewing the witness protection programme and enlarging the scope of victim relief are also included in the plan.

Other proposals include:

- Facilitating the implementation of class actions for consumers;

Continued on Page 2

Justice

Continued from Page 1

- Introducing administrative assistants for metropolitan prosecutors;
- Considering legislation to use lay assessors in criminal cases in Magistrate's and Supreme Courts;
- Introducing night courts; and
- Implementing a state attorneys office briefing policy to brief previously

disadvantaged lawyers

To promote professionalism, the paper suggests abolishing magistrates' supervisory role over prosecutors and establishing an integrated judiciary to encourage career pathing.

On the legal profession as a whole, the paper suggests that requirements for admission be looked at and existing laws be reviewed to expand reciprocal recognition of foreign legal qualifications and facilitate the appearance of law students in magistrate's courts.

Omar 'unable to meet' prosecutors' demands

BD. 10/7/96 (252)

Stephané Bothma

PRETORIA — It was legally impossible to decide upon a salary rise for prosecutors before July 19 as demanded by them, Justice Minister Dullah Omar said yesterday.

The Prosecutors' Association of SA started a work-to-rule policy on Monday pending an ultimatum to Omar to announce parity of salaries with magistrates before July 19. The prosecutors then will decide whether to go on strike if their demands are not met.

Omar said while the salary question of State advocates and prosecutors needed to be addressed urgently, protest action resulting in the disruption of courts was unacceptable. "Both the advocates and prosecutors are aware ... that because of the different legal position of magistrates, it is impossible to meet the demands they have set," he said.

Magistrates, as a result of a long process that included legislation, were delinked from the civil service which made it possible for him to negotiate with the finance minister and the magistrates commission for appropriate salaries. In the case of prosecutors and advocates, salaries were negotiated by the central bargaining chamber.

Omar previously announced that envisaged legislation would provide for a single prosecutorial authority which would also delink the personnel from the public ser-

vice. However, it was still the subject of a challenge in the Constitutional Court.

He said prosecutors and advocates must be delinked from the public service — a move which would constitute a radical break from the past. Omar said the Prosecutors' Association had approved the salary packages negotiated in the central bargaining chamber and had only "adopted a militant posture" once the increase negotiated for magistrates was announced.

Omar pointed out that even after the association accepted the outcome of their salary negotiations, the justice department, realising that the increases would be inadequate, continued its negotiations with the Public Service Commission to move prosecutors and state advocates to higher grades which would immediately provide a basis for higher salaries.

"The department is also exploring what else can be done in the short term with regard to overtime and other allowances. The department is also examining the possibility of the creation of a separate bargaining chamber in terms of the Labour Relations Act as a short-term measure in an attempt to win an improved dispensation for prosecutors and State advocates."

In the light of the efforts by the department, any disruption of court or any action which causes disruption could not be justified, Omar said.

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ANC postpones its report to truth probe

Party tells commission it would be 'invidious' for President Mandela to have to field questions relating to its submissions while he is representing SA overseas

BY SABA AND STAFF REPORTERS

The ANC has asked for a postponement of its submissions to the truth commission in Cape Town tomorrow, citing President Mandela's absence as a major reason.

The president is on a state visit to Britain at present.

Commission chairman Archbishop Desmond Tutu said yesterday the party told him it would be "invidious for the president to be faced with questions relating to his party's submissions while he is overseas on official business representing all South Africans".

Robert Brand reports from Mmabatho that the truth commission has been told that plans for an attempted coup in Bophuthatswana in 1988 included the assassination of its president, Lucas Mangope.

Samuel Tshwane said yesterday the coup was planned at the headquarters of Rocky Malebane-Metsing's Progressive People's Party (PPP) following its weak showing in the 1987 elections.

The plotters wanted to kill Mangope, two cabinet ministers and "a civilian".

On the night of February 9 1988, members of the Bophuthatswana Defence Force held Mangope prisoner while Malebane-Metsing was proclaimed president. But the SA Defence Force intervened, freed Mangope and suppressed the coup.

Malebane-Metsing escaped and claimed the coup had been

planned and executed by defence force without collaboration of the PPP, and that he had been virtually forced by the plotters to take over the presidency.

Tshwane was testifying on the last day of the commission's hearings in Mmabatho. The human rights violations committee now moves to Pietersburg, where it will hear evidence from Monday. The amnesty committee will hear six amnesty applications in Pretoria next week.

Meanwhile, the ANC yesterday denied allegations by the Foundation of Equality Before the Law to the commission of an

Commission hears of failed coup debacle

ANC plot to assassinate President Mandela in 1990

The document containing the allegations was compiled by retired security police general Herman Stadler.

Stadler said evidence of a plot to murder Mandela had emerged from documents of the committee which had been in charge of Operation Vula.

Rejecting accusations by the ANC that the document was part of what it called a disinformation campaign, Stadler said his observations were based on facts and thorough research. The internal wing of Operation Vula was

under the command of SA Communist Party members Mac Maharaj, Siphwe Nyanda and Ronnie Kasrils, now deputy minister of defence.

Stadler quoted an alleged message in 1990 from Maharaj to Nyanda. It reads in part: "Besides the equipment you already have, it appears that Ntaba's (code-name for Zuma) outfit is required to store two pieces (firearms) which were in the hands of the enemy group planning Madiba's assassination." Madiba is a clan name for Mandela.

Rejecting the allegation, ANC spokesman Ronnie Mamoepa said it was not surprising that claims of the plot came from the same people who had deceived the public with disinformation, portraying the ANC as a terrorist organisation.

"The ANC rejects with contempt the suggestion that Mac Maharaj, Siphwe Nyanda and Ronnie Kasrils knew and planned the assassination of ANC president Nelson Mandela," he said.

He said this was yet another attempt by a "disgruntled clique of former security force members" who had allegedly been party to earlier security force disinformation and lies about the past.

The allegations were nothing but a figment of their imagination and had to be rejected by all South Africans, Mamoepa said.

He said the ANC was the architect of a negotiated settlement and responsible for the transformation of South Africa into a democracy.

(252) STAW 11/7/96

ANC infighting is stalling Truth evidence, say Nats

JOSEPH ARANES
Staff Reporter

THE National Party has accused the African National Congress of indulging in political opportunism by postponing submissions due to be made by political parties to the Truth Commission.

The NP calls the postponement a smokescreen to cover the ANC's "inadequate preparations and internal differences".

Truth Commission chairman Archbishop Desmond Tutu said the ANC had asked for a postponement as it would be invidious for President Mandela, on an official visit to the United Kingdom and France, to be "faced with questions relating to his party's submissions while he is overseas on official business representing all South Africans".

The long-awaited political-party submissions to the commission were scheduled for tomorrow.

NP leader FW de Klerk said the fact that Mr Mandela was on a foreign visit was no excuse for rescheduling the submission.

"The ANC has already known about this visit for a long time and the date for the presentations has been finalised with their co-operation. They announced that their presentation would have been done by Deputy President Thabo Mbeki."

"The reasons for the ANC's request

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therefore comes across as a smokescreen to cover their inadequate preparations and internal differences. It is also of great concern to us that the Truth Commission has granted the ANC's request.

Mr De Klerk said all the parties had agreed tomorrow would have been a suitable date to hand in their submissions and that there had been enough time for preparations. "No excuse for inadequate preparations by any party is thus acceptable at this late stage," he said.

The ANC had asked that the date for party submissions be postponed until after July 29, when Mr Mandela would be back.

Archbishop Tutu said that after requests from a number of political parties, the commission had reluctantly decided to postpone its plans to receive submissions from the parties tomorrow.

The commission had also been informed by the Pan Africanist Congress that it was not yet ready to hand in its submission.

The Freedom Front had reconsidered its position, because it was formed after the period covered by the commission's mandate, and did not want to present a submission until it had consulted with other right-wing parties.

The Inkatha Freedom Party had not yet indicated whether it would make a submission, Archbishop Tutu said.

Crisis in the courts: More state lawyers support pay protest

CHENÉ BLIGNAUT and LENORE OLIVER
Staff Reporters

THE salary crisis disrupting South African courts has worsened, with yet another vital sector of the state legal system entering the fray

The Association of State Attorneys (ASA) representing more than 200 public sector attorneys who in turn represent the state in civil cases, is the latest branch of the Department of Justice to express outrage over the recently announced pay increases for magistrates from which other state lawyers did not benefit

Meanwhile, another organisation of state lawyers, the Society of State Advocates (SSA) which represents Supreme Court prosecutors, is meeting Justice Minister Dullah Omar today to discuss the crisis

The crisis deepened further as prosecutors in most of the magistrates courts in the Western Cape have now applied work-to-rule protest action in support of their demand for salary parity between themselves and magistrates

These include courts in Cape Town, Bellville, Goodwood, Wynberg, Kuils River, Parow, Paarl and Worcester

ASA president Pieter Riedemann yesterday declared the organisation's solidarity with prosecutors who have embarked on protest action over discrepancies between their salaries and those of magistrates

Like the prosecutors, the ASA is also demanding immediate parity for its members

Mr Riedemann accused Mr Omar of following a "piecemeal approach" and of resorting to "crisis management"

He said for years the justice department had refused to differentiate between its legal staff on the basis of professionalism, but insisted on maintaining salary parity with reference to academic qualifications

The decision to boost magistrates' salaries on the basis of professional

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status "appeared to fly in the face of the department's declared policy", added Mr Riedemann

He added that senior state attorneys would only receive increases in the region of 9,9 percent, compared to the dramatic increases for magistrates, reported to be as much as 171 percent in some cases

The association is planning to meet Mr Omar soon to discuss its grievances

Apart from the salary issue, the association will also try to obtain full recognition of the professional status of its members

Mr Riedemann said this may entail a demand for the severance of the division from the Department of Justice to achieve autonomy

Cape Town senior public prosecutor Kevin Rossouw said courts in the rural areas were also slowly joining the protest

"People are spontaneously joining the protest," Mr Rossouw said

Mr Rossouw said that yesterday, prosecutors had started at times varying from 9 30am to 11 45 am

By 4pm not one court at Cape Town magistrates and regional courts was still in session and the building seemed eerily quiet

Prosecutors were holding regular meetings to keep up to date, Mr Rossouw said

"The prosecutors first completed their preparation and administrative work and consulting with their clients and then they went on to court," Mr Rossouw said

He said he had heard of one or two magistrates in other areas threatening protesting staff, but at the Cape Town court at least two magistrates had come out in support of the action

"Even the public and a few attorneys have indicated their sympathies lie with us," he said

"We do not want to go on a strike but we will only stop our action once Minister of Justice Dullah Omar brings our salaries on par," he said

Abortion right 'key to equality'

Political Staff

ARG 11/7/96

WOMEN would be unable to meet their full potential if they did not enjoy the right to make their own decisions over their reproductive capacity, the Reproductive Rights Alliance (RRA) has argued in the Constitutional Court.

Submitting argument on the Bill of Rights yesterday, Cathi Albertyn, for the RRA, said unplanned pregnancies created "severe obstacles" to women's equality. The constitution recognised that women had been discriminated against in the past and it was intended to correct this discrimination.

The cabinet last week approved a bill allowing abortion on demand, which will almost certainly be subjected to court scrutiny.

Pro-lifers gave a hint of the arguments they can be expected to raise when that debate gets under way.

Opposing the clause, which gives women control over their reproductive capacity and which has been interpreted as allowing abortion on demand, Jan van der Vyver for Pro-Life said the right to life, while it could be limited, could not be suspended.

The limitations clause in the proposed text detracted from the rights offered by the interim constitution. Where the interim constitution placed limits on the right to life, it did so "without negating the essential content of the right". This omission meant life now enjoyed less protection.

Mr Justice Ismail Mohamed asked whether there was a tension between the right to control one's reproductive capacity and the right to life. The question was not answered.

Win Trengove, for the Constitutional Assembly, submitted that the exclusion of the phrase "without negating from the essential content of the right" made no difference to the limitations clause.

He did, however, concede to court president Mr Justice Arthur Chaskalson that the omission provided a less strict test for the limitation.

New court debates its power over politicians

PATRICK BULGER and HELEN GRANGE

Political Staff

CONSTITUTIONAL Court judges have been wrestling with the powers they enjoy, questioning to what extent they can order parliament and the executive to follow their rulings and directives.

The debate arose yesterday during argument on the certification of the new constitutional text presented by the South African Institute of Race Relations (SAIRR).

The institute argued that the horizontal application of the Bill of Rights could not be adjudicated by a court and therefore contravened the constitutional principle which demanded that all rights be "justiciable".

The Constitutional Assembly had included in the Bill of Rights the right of access to housing, health care, "sufficient food and water" and social security.

The new text orders parliament to introduce horizontal application of the Bill of Rights by means of legislation within three years. Until it does so, only relationships between the individual and the state are subject to the Bill of Rights - the horizontal application will enforce the rights in relationships between individuals and other juristic persons.

Christopher Loxton SC, for the SAIRR, argued that if the court was approached to adjudicate whether a person's lack of housing violated the Bill of Rights, it would have to stray on to political territory in its ruling. This had implications for the separation of powers

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between judiciary and executive

"That will inevitably involve the court in making political assessments," Mr Loxton said.

Mr Justice Albie Sachs earlier made a similar point, saying the court had to be careful to avoid "rule by judges". The court could propose remedies that parliament could only change by adopting constitutional amendments.

Court president Mr Justice Arthur Chaskalson said the court would recognise when the separation of powers doctrine was at stake and would not answer political questions. Instead it would defer to the legislature.

Mr Justice John Didcott said the court was never going to tell government where it should build its dams and Mr Justice Ismail Mohamed said there was a political element to each judgment.

Judge Chaskalson argued that courts routinely ordered governments to spend money and to re-order their budgets if that was necessary.

Judge Mohamed said the political consequences of parliament ignoring a directive from the court had to be considered, saying one should not underestimate the "moral power of such a declaration".

In a later argument on access to information, Wim Trengove, for the Constitutional Assembly, said the intention was not to mean that "any person or busybody is entitled to information". The principle demanded only that information be available to those who needed it to protect their rights and in the interest of accountable government.

Prosecutors' policy leads to fewer daily court hours

(252) BD 11/7/96

Deborah Fine

COURT hours at the Johannesburg Regional Court have dropped by up to one and a half hours a day as a result of the work-to-rule policy adopted by prosecutors this week to back their ultimatum for parity of salaries with magistrates.

Senior public prosecutor Brink Ferreira said yesterday that instead of the normal five to five and a half hours a day, courts had been in session for far shorter periods this week because of the prosecutors' protest.

He explained that whereas prosecutors had previously taken trial dockets home in the evenings to prepare for the following day, they were now only preparing for the day's cases when they arrived at work.

Courts could thus convene only later in the day and this had resulted in an increase in the number of cases having to be postponed.

Ferreira said this had obviously increased the court's backlog of cases and had "prolonged the course of justice".

He would know only next week how many extra cases had been remanded as a result of the prosecutors' actions.

Prosecutors have threatened to continue the work-to-rule policy until July 19, when the Prosecutors' Association of SA will decide whether or not to strike if Justice Minister Dullah Omar has not met their demands.

Omar said on Tuesday that it was legally impossible for the justice depart-

ment to decide on salary increases for prosecutors by that date.

Sapa reports that the judicial process at magistrates' courts in the Cape Metropole was also severely disrupted as prosecutors joined their colleagues in following the work-to-rule policy.

A spokesman for the Cape Town Magistrate's Court said courts in most larger towns had been hit by the action.

Despite court proceedings opening as late as noon, attorneys and the public had been supportive of the prosecutors' action. Certain magistrates in the Cape Town area had also come out in favour of the work to rule, said the spokesman.

Acting Gauteng premier Paul Mashatile has expressed "great concern" about the prosecutors' action, saying yesterday that the action had come at a time when SA — and particularly the people of Gauteng — had to give a "united face" in the struggle against "criminality and other wrong-doers".

It was unfortunate that the work to rule may send a wrong signal to would-be offenders that the judicial structure was either malfunctioning or "about to grind to a halt".

While the concerns of the prosecutors were understandable, the Gauteng government was of the view that they should have sought other methods to negotiate their problems.

Mashatile said he was confident that Omar would "find a speedy . . . resolution to this judicial logjam".

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Chaskalson defines court's task

252

BD 11/7/96

Susan Russell

CONSTITUTIONAL Court president Arthur Chaskalson reminded objectors to the new constitutional text who made submissions yesterday that it was not the court's task to decide whether provisions included in the final draft by the Constitutional Assembly were good or bad.

The court's duty, he said, was to see whether the new constitution complied with the 34 constitutional principles which were agreed to after months of negotiation by the multiparty representatives at Codesa.

Chaskalson had to remind objectors of the ambit of the court's task more than once during submissions from interest groups with complaints

against provisions, ranging from the inclusion of a reproductive rights clause, perceived deficiencies in the access to information clause, the inclusion of socioeconomic rights and protection under the Bill of Rights for "juristic persons" (corporate entities).

Both the SA Institute for Race Relations and the Free Market Foundation complained about the inclusion of a provision making horizontal rights applicable in the new test, extending the Bill of Rights to apply in relationships between private individuals instead of restricting it to between citizen and state as in the interim constitution.

The two organisations also objected to the inclusion of socioeconomic rights in the constitution.

Three suspects go free as prosecutors' work-to-rule bites

By DAISY JONES

Three alleged criminals have been acquitted before going to trial because of a widespread public prosecutors' work-to-rule campaign which has been described as negating the interests of justice

And Johannesburg's senior public prosecutor, Brink Ferreira, has warned that the protest action has caused a backlog which could take months to clear

The controversial campaign has come under fire from within prosecutors' ranks, but has also drawn support from other quarters. Western Cape Attorney-General Frank Khan has given a thumbs-up to the action. Sapa reports the three suspected criminals were acquitted on Wednesday by Cape Town magistrate P Sauerman of robbery and indecent assault following a successful opposition by the accused to another remand of their case, which had twice

been postponed due to requests by the State

■ Justice Minister Dullah Omar admitted yesterday in discussions with the Society of State Advocates and the Prosecutors' Association of SA that his hands were tied when it came to their salary packages. Salaries of prosecutors and state advocates needed to be addressed urgently, but he lacked the power to negotiate their packages as this was the domain of the Central Bargaining Chamber

(182) (252) STAN 12/7/96

PROSECUTORS' GO-SLOW HAMPERS COURTS

Assault suspects walk free

CT 12/7/96 (252)

THE ATTORNEY-GENERAL of the Cape, Mr Frank Kahn, has called on the government to solve the row regarding prosecutors' salaries after a case was struck off the roll at the Cape Town Magistrate's Court as a result of the dispute.

CAPE attorney-general Mr Frank Kahn is to investigate the circumstances in which a city magistrate struck a case of three men charged with robbing and indecently assaulting a woman on a suburban train off the roll as a result of the four-day prosecutors' go-slow protest action.

Kahn said his office will call for the record today and warned that the men could be re-charged.

"Provided they (the prosecutors) do not break the law and act responsibly, they have my support. It is common cause that they have been unjustly treated by the lopsided salary adjustments. On the other hand, prosecutors should also realise that the end can never be seen to justify the means."

He urged the government to urgently find a solution otherwise it could cause irreparable harm to the administration of justice.

Yesterday Mr H Swart, the con-

trol magistrate at the Cape Town Magistrate's Court, confirmed the release of the three men and said this was the first known discharge due to the prosecutors' protest.

The prosecutors are demanding higher salaries and increases in line with the increments recently granted to magistrates.

Magistrate Mr P Sauermaan dropped the charges against the accused when the state failed to finalise its case on Wednesday after the prosecutor had excused his witnesses.

Swart said the suspects had objected to another postponement of their case which had been held over at least twice before.

Sauermaan noted that had the work-to-rule not been in effect, there would have been plenty of time to hear the case.

Swart said that Sauermaan's decision was reinforced in terms of a court ruling handed down in 1994,

and by the fact that the proceedings against the men was designated preferential, which gave the case priority on the court roll.

He added that justice had not been served in this instance and hoped the prosecutors' grievances would be speedily dealt with as their protest was not in the interests of justice.

Another official, who chose not to be identified, said this kind of action had raised prosecutors' concerns, as in certain cases charges could not be re-applied once they had been dismissed.

He said prosecutors had been asked to keep track of any magistrate deciding to throw out, rather than hold over, cases during the protest.

Kahn said he could not see why the money to pay prosecutors more could not be found by cancelling the attractive retrenchment packages offered to prosecutors recently. Skilled and experienced prosecutors, who would otherwise not have accepted the packages had their salaries not been so low, had accepted packages of up to R500 000 each, Kahn said.

"Taxpayers would be better served if these packages were cancelled and the funds redeployed to improve the salaries of prosecutors. This would also make it acceptable to the prosecutors who had accepted the packages."

Prosecutors in SA have a record of unstinting service and as this latest incident shows, the lower courts are driven solely on the overtime sacrifices and efforts of dedicated public servants, he said.

Meanwhile, the prosecutors at Mitchells Plain Magistrate's Court say they will not join their colleagues in a work to rule campaign.

The group claimed many of the prosecutors involved were white reactionaries bent on discrediting Justice Minister Mr Dullah Omar.

They said these very prosecutors had been responsible for the negotiation of the current salary packages offered to prosecutors.

Also, the senior prosecutor at the Johannesburg Magistrate's Court, Mr Brink Ferreira, said there was a possibility cases which had been postponed too many times could be struck off the roll by magistrates — Staff Writer and Sapa

Truth commissioner asks parties to own up

Linda Enson

(252) BD 12/7/96

CAPE TOWN — The truth commission would be able to complete its task in the time set aside only if the military and security chiefs of the main political parties came forward and revealed details of the gross violations of human rights which were committed in the course of their political warfare, commissioner Dumisa Ntsebeza said last night.

The commission hoped that once the political parties had submitted statements about the policies which informed their actions, the military generals and security officials would come forward to outline operations undertaken in pursuit of those policies.

These submissions would hopefully contain details of the names of people lost, killed and tortured and those who went missing.

Once the NP and ANC had come forward in this way, it was hoped

that the IFP and PAC would follow, Ntsebeza, who is also head of the commission's investigative unit, said.

Only if this occurred would it be possible for the commission to complete its mammoth task of uncovering the truth about human rights violations in 33 years of apartheid rule within the 18 months it had been given.

To aid it in its investigative tasks the commission would be using its power to subpoena people to give evidence. Those subpoenaed had no legal right to refuse to answer questions.

"Some of the perpetrators are known and all that is required is for them to be subpoenaed and questioned to get to the bottom of what took place," Ntsebeza said.

On the merit of the amnesty process, Ntsebeza said it was too early to cast judgment as one would have to wait to assess the reactions it evoked in people.

Chaos in justice system set to worsen

By PRAKASH NAIDOO

State advocates have decided to throw their support behind prosecutors and will start a nationwide work-to-rule campaign on Monday - a move that will plunge the already shaky justice system into further chaos.

During an emotionally charged meeting at the Justice College in Pretoria yesterday, members of the Society of State Advocates voted by an "overwhelming majority" to take industrial action following a simmering row with the Justice Department over pay and working conditions.

Justice Minister Dullah Omar described the action as "regrettable" and said he did not have the power to negotiate salaries on behalf of prosecutors or state advocates, who were still part of the public service.

Prosecutors in magistrates' and regional courts have been working-to-rule since Monday, causing disarray in the courts and adding to the backlog of cases.

This is the first time prosecutors and state advocates have taken any kind of industrial action. It was sparked by the granting of substantial pay rises to magistrates last month.

Society of State Advocates chairman Retha Meintjes said, "This is definitely a serious step for us to take and will have very serious implications for justice."

State advocates would work from 8am to 4:30pm and refuse to do overtime, believed to average 40 hours a month, Meintjes said. "We will do only what is expected of us during that time and nothing more," she said.

The action would continue for the next two weeks, by which time the society hoped to have resolved the issue with Omar, who representatives would meet on Tuesday. State advocates were also furious about

the department's decision to hire private advocates at substantially higher salaries to help reduce the backlog in cases.

Omar said that since prosecutors were still linked to the public service, their salaries were negotiated by the Central Bargaining Chamber. Its proposal for a new salary package for prosecutors had been accepted by the Prosecutors Association of South Africa earlier this year.

"Our vision is to create a new dispensation for the prosecutorial services, and the first step would be to remove them from the civil service," he said. He suggested at a

meeting with prosecutors and advocates on Thursday that immediate steps be taken to move them to higher grades, providing a basis for immediate salary increases. Once this was approved and funding was provided for by the Cabinet, their salaries would be on a par with those of magistrates.

However, Meintjes said the grading system which had been agreed with the Central Bargaining Chamber simply provided for an evaluation process. There was no guarantee that all prosecutors would benefit from it.

Johannesburg Magistrates' Court senior state prosecutor Brink Ferreira said the

already huge backlog in cases was bound to be exacerbated by the work-to-rule, which had cost 60 court hours a day in the Johannesburg magisterial district alone.

Last year there was 40% turnover of prosecutorial staff at the Fox Street court, while 21 out of 128 prosecutors had resigned this year. Ferreira said prosecutors were assured of parity with magistrates, but when magistrates were removed from the public service in 1994, they were able to negotiate separate pay packages for themselves.

TO PAGE 2

manipulating a gang...
...the...
...the...

Justice system (252) (252)

Magistrates with eight years' experience earned R136000 a year, compared with R98000 for prosecutors at the same level.

Ferreira said "This latest salary increase was the straw that broke the camel's back."

Omar said there were complex reasons for the growing court backlog, the most significant being the substantial increase in prosecutors' administrative duties since implementation of the new constitution.

"It's a great constitution, but it imposes great burdens as well," said the minister.

Attorneys-general were taken off the public service payroll in 1992. Magistrates followed about two years ago. Said Omar "It took three years and special legislation before Parliament to remove magistrates from the public service, which was seen as a break from the past and a move towards an independent judiciary. The effect was that we were able to negotiate a salary package for magistrates." He denied magistrates' increases were as high as 140%, saying they averaged 40%.

Restructuring the justice department, which would alleviate many of the prosecutors' problems, could occur only once the constitution had been certified. It would include delinking prosecutors from the public service, providing for a single prosecutorial service headed by a national director of public prosecutors.

Arat 13/7/96

be prepared to face any...
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■ Many more awaiting-trial suspects are expected to walk free as state advocates join the prosecutors' work-to-rule campaign.

PRAKASH NAIDOO and LENORE OLIVER
Staff Reporters

THE work-to-rule campaign by state prosecutors could result in many awaiting-trial suspects who have pleaded guilty, walking free from Magistrate's Courts

This follows the acquittal in the Cape Town Magistrate's Court this week of three men, arrested on indecent assault and robbery charges, as a direct result of action by prosecutors.

Western Cape Attorney-General Frank Kahn said the prosecutors's work-to-rule campaign could have a "devastating effect" on the productivity in the Magistrate's Court

Magistrate's Courts were driven by overtime efforts and sacrifices by state prosecutors, he said

"Accused persons are entitled to a speedy trial. If productivity drops this is not an achievable goal and magistrates can refuse to grant further postponement

"In instances where the accused has pleaded guilty, this can result in an acquittal

"Where an accused has not pleaded, a magistrate can strike the case off the roll and the attorney-general's office will be in a position to decide whether to recharge the accused or not," said Mr Kahn

The acquittal of the three men in Cape Town is the first known acquittal as a result of action by prosecutors - who are protesting against the gap between their salaries and those of magistrates

The three men Clint Peters, 21, Peter Pick, 25 and Leonard Claasen, 22, had appeared in court in connection with an incident on a train at Salt River

And in a move of solidarity yesterday, state advocates decided to throw their support behind prosecutors and will embark on a nationwide work-to-rule campaign from Monday - a move that is expected to plunge the already shaky justice system into further chaos

At an emotionally charged meeting at the Justice College in Pretoria yesterday, members of the Society of State Advocates (SSA) voted by an "overwhelming majority" to take the industrial action, following a simmering row with the Department of Justice over pay and

■ Turn to page 3

URDAY Weekend Argus, July 13/14 1996

5

Go-slow causes chaos in court

■ From page 1 (252)
ARC 13/14/96

work conditions

Justice Minister Dullah Omar described the latest action as "regrettable" and said he did not have the power to negotiate salaries on behalf of prosecutors and state advocates, who were still linked to the public service

Reacting to the news, Mr Kahn said advocates were entitled to any kind of action which was responsible and lawful

"What must be remembered, however, is that not all the advocates in my office are members of the SSA," said Mr Kahn

"Supreme Courts are in recess until August and I hope matters will generally be on an even keel by that time," he said

He added that he had the fullest confidence in Mr Omar "who is really trying his best"

"We are looking to the government for a speedy resolution to the problem," he said

This is the first time that both prosecutors and state advocates have embarked on any kind of industrial action, which was first sparked off last month after magistrates were given substantial increases in salary

"This is definitely a serious step for us to take and will have very serious implications for justice in the country," said SSA chairwoman, Retha Meintjies

According to Meintjies, state advocates will be working from 8am to 4 30pm and will refuse to do any over time, which is believed to average around 40 hours a month

"We will only do what is expected of us during that time and nothing more," said Meintjies

252) (ARC 13/14/96) (56) **GO-SLOW CAUSES CHAOS IN COURT**

Meiring to give Truth Commission information about SADF atrocities

(252) ARG 13/7/96
MXOLISIMGXASHE
Staff Reporter

THE Truth and Reconciliation Commission has made an important breakthrough as General Georg Meiring, 55, head of the integrated South African National Defence Force, has agreed to provide it with information on atrocities committed by the former South African Defence Force.

Deputy chairman of the commission Alex Boraine told SATURDAY Argus last night that General Meiring had also agreed to help the TRC in investigating the former SADF secret files which parliament's intelligence committee claimed had been burnt.

Dr Boraine said he had held a "very useful" meeting with General Meiring yesterday.

Outgoing chairperson of Parliament's Intelligence Oversight Committee Lindiwe Sisulu said in her Press briefing recently General Meiring had admitted he knew about the burnt files.

The general was asked to establish who had destroyed the files, why; under whose instructions, who should be held responsible for their destruction, whether there were any more files left and how the TRC could access these files?

A number of undertakings made by General Meiring would facilitate the commission's investigations into who had committed which atrocities from March 1960 to December 1993 - the cut-off date of the TRC mandate.

The meeting was apparently a follow-up to one held between the TRC and Minister of Defence Joe Modise and his deputy Ronnie Kasrils last week.

Dr Boraine said issues discussed with General Meiring included the establishment of an ongoing liaison between the TRC and the defence force which would assist the commission in cross-checking allegations made in some of the testimonies against the former SADF.

"For instance, when the commission sat in Bloemfontein

recently we heard how some members of the ANC fled the country for a place of relative safety, Maseru in Lesotho, and how they were pursued there by the SADF who are alleged to have killed and maimed innocent women and children.

"We would like to know why and under whose orders these and other violations of human rights by the old army happened," Dr Boraine explained.



General Georg Meiring

The Constitution, the judges Finding a

Ordinary people wondering what protection they can actually expect from our new supreme law could draw comfort from this week's Constitutional Court hearings, reports **CARMEL RICKARD**

ST 14/7/96

(252)

AFTER the political parties had their say last week, it has been the turn of ordinary people to tell the Constitutional Court why they like or dislike the planned new Constitution

From organised labour and business to both sides of the abortion debate, they came to the court in Braamfontein

The court, sitting with only 10 of its 11 members because of Justice Laurie Ackermann's illness, has to decide whether the draft Constitution will become law

Their approval hinges on whether they are convinced that the text satisfies the requirements of the constitutional principles negotiated in Kempton Park before the 1994 elections.

If they certify that the draft complies with the principles, the new Constitution will become the law of the land. If not, they will send it back to the Constitutional Assembly to try again

The views heard this week reflected a wide spectrum, but the voices sounded remarkably uniform even the lobby group Women for Responsible Rights was represented by a man

In all, only three women addressed the court: two on reproductive rights and one on socio-economic rights. Together, they took up only 45 minutes over 10 full days

BUT the process was nevertheless far more inclusive than it might have been, because the usual rules about who may appear in court were waived

Two traditional leaders in full regalia stressed their desire for a greater role under

conventional procedure, and their involvement must give the outcome of the case greater credibility.

The process of subjecting the Constitution to court scrutiny is unique and several judges described it as arduous. Just why this should be so emerged quickly

The Constitution and the principles by which it must be judged were the product of political negotiation, a patchwork of clauses through which the drafters tried to satisfy the often conflicting demands of the politicians

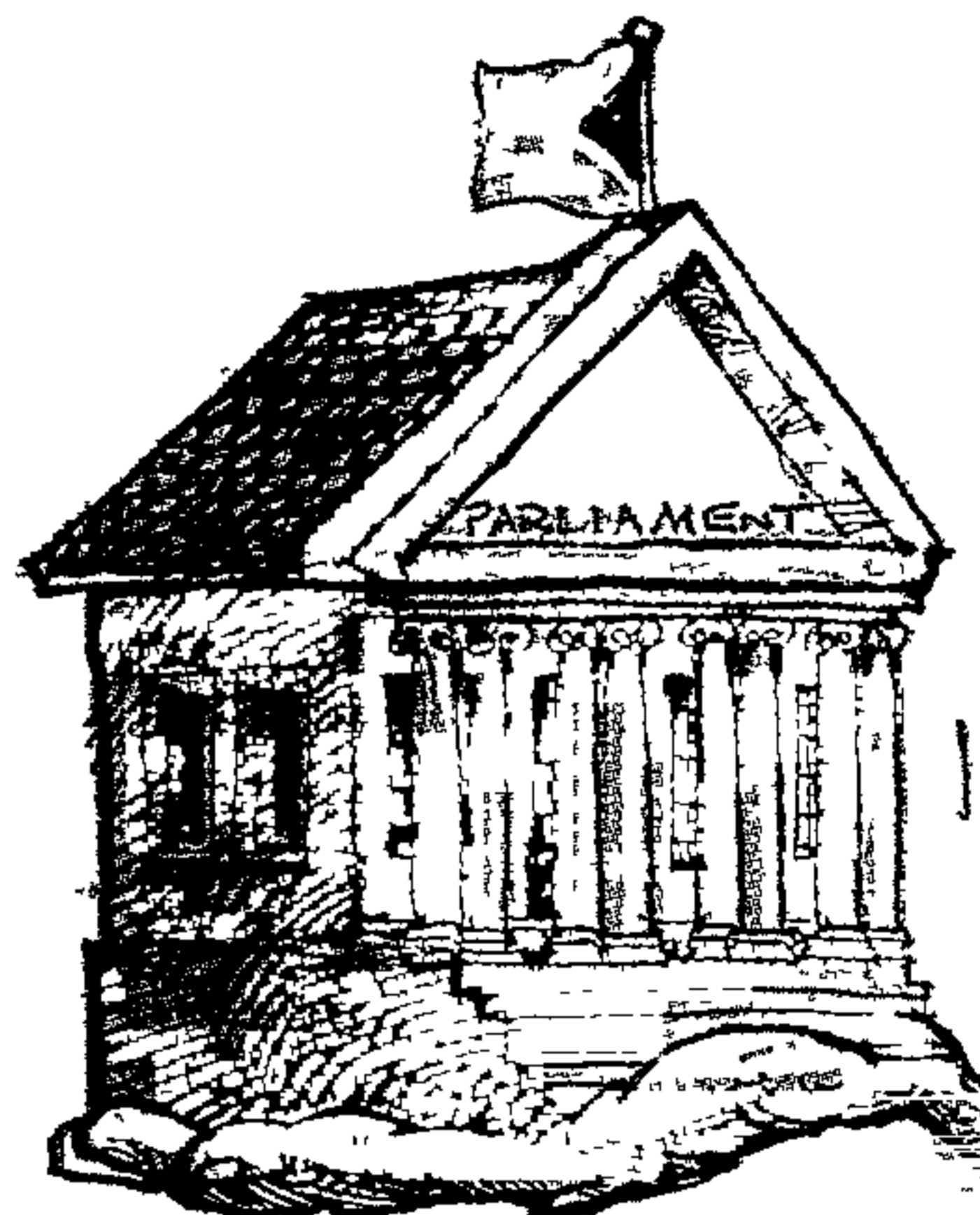
Yet these essentially political documents are now open to a different scrutiny, in which every word is examined under the microscope of legal interpretation

THE exercise showed up flaws, inconsistencies, ambiguities, tautologies — and some words and phrases so obscure that neither the court nor counsel seemed able to give them any sensible meaning

For the drafters, the process had a strange dimension. They heard what had been almost throwaway lines transformed into expressions of profound legal meaning

As legal teams tried to outdo each other by reading ever deeper significance into the text, some of those responsible for the original language privately expressed their astonishment

At times, the court's task seemed impossible, particularly when one group after another tried to claim that the particular right which it favoured should be explicitly included in the Bill of Rights, to balance a competing right



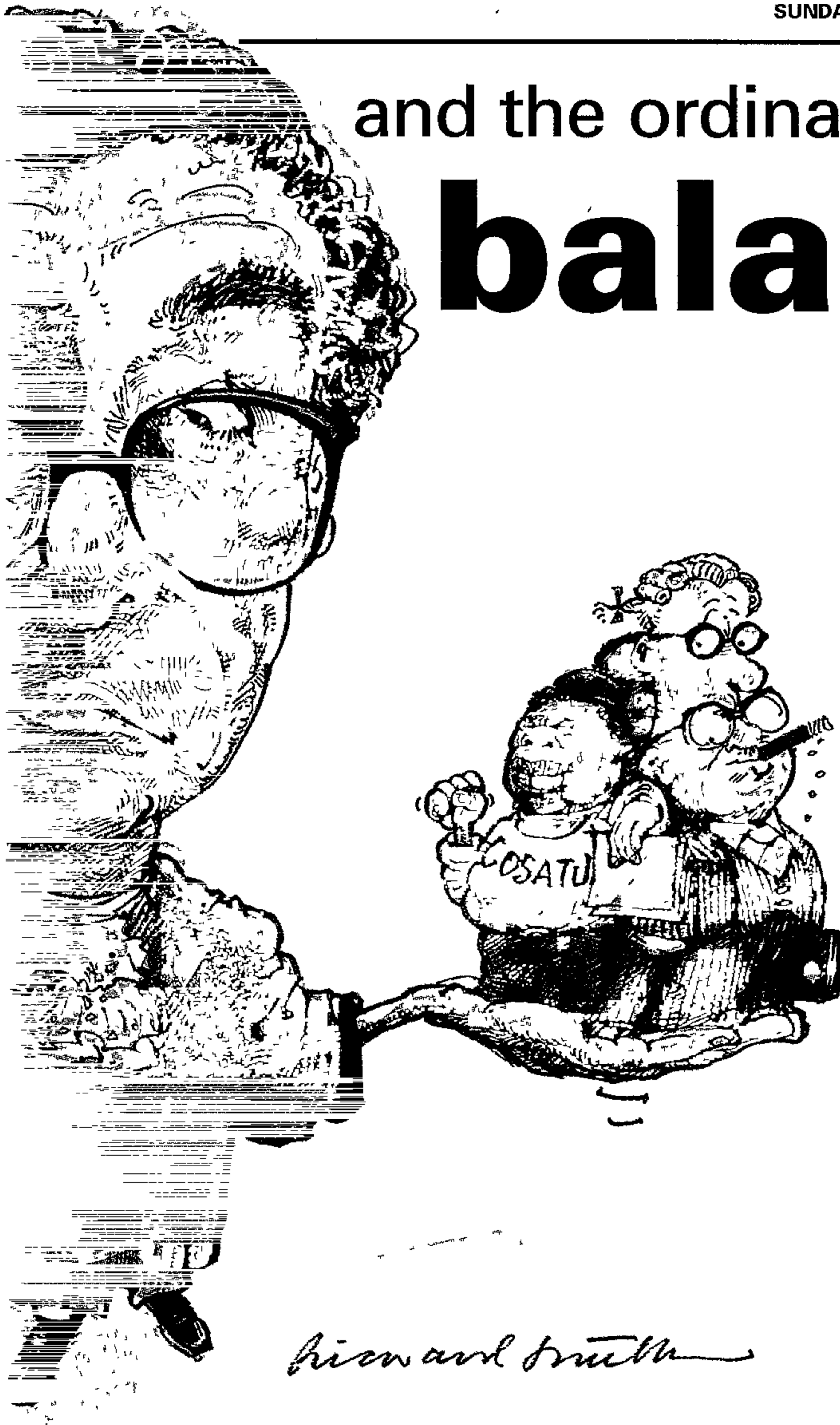
be achieved in the knowledge that the text might already contain a slant for or against some rights, but that the court has to accept this as a legitimate political decision, as long as the final document complies with the constitutional principles

On the last two days, the

The judges asked what they would be able to do if Parliament neglected to provide access to housing, but spent its resources on defence

They discussed whether such a decision would be subject to the discipline of court scrutiny and how the court would impose this discipline

and the ordinary people balance



Richard Smith

...is that the court
end up usurping the
of the legislature"
ourt President Arthur
Chaskalson commented: "If
liament refuses to follow
ourt order there will be a
stitutional crisis, the
i does not have an
ny."

the Labour Act, adding. "The
reason for this three-card
trick is that the problem
could not be solved by nego-
tiators."

Justice Chaskalson said
"How can you immunise it,
but say it is not really part of
the Constitution?"

If they eventually decide

tion, the Constitutional As-
sembly will know what has to
be fixed. But the court would
not be able to prevent wider
changes than those which it
demanded as a minimum

In other words, parties
such as the Inkatha Freedom
Party could try to have a
number of issues reopened,

the court became involved in
heated debate that should
comfort ordinary people
wondering what protections
they could expect from the
new Constitution. Two of
these exchanges occurred at
the end of the week. Like ev-
eryone in court, the judges
had started to show some
strain after days of intense
debate, but facing what they
obviously felt might be a re-
turn to unbridled power, they
waded in, swords flashing

At the end of the first week,
the problem was whether the
top watchdogs on executive
power and corruption were
ensured of independence.

This week they heard
alarm bells over the state of
emergency provisions

The problem was raised by
objectors from the Human
Rights Committee, but they
declined an offer to put their
case orally as they would be
"away on holiday"

But the court examined the
emergency provisions any-
way, and soon became agi-
tated by what they found

IRONICALLY, the debate
took place between
staunch opponents of the
states of emergency under
the previous government

George Bizos SC, the Jo-
hannesburg advocate who led
the Constitutional Assem-
bly's legal team, urged the
court to accept that it was
sometimes essential to have
a state of emergency, and
that the Constitution con-
tained provisions to ensure it
did not continue longer than
necessary.

Justice Ismail Mahomed,
like Bizos a veteran of anti-
emergency cases, pointed out
that the state of emergency
in the former Transkei had
lasted 20 years

Justice Kriegler jokingly
asked whether he could enter
"this exercise in nostalgia"
to raise another difficulty
with the proposed emergen-
cy provisions

He and several other
judges then criticised a num-
ber of emergency clauses, in-
cluding one which could in-

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Work to rule sparks war in courts

(252)
ST 14796
By CARMEL RICKARD

THE Minister of Justice, Dullah Omar, has urged magistrates not to victimise prosecutors and state advocates involved in a work-to-rule protest.

Two magistrates have charged prosecutors with contempt of court since the protest started.

Prosecutors who asked not to be named said that most magistrates supported their "desperate" efforts to do something about intolerable working conditions, staff shortages and inadequate salaries.

However, some magistrates have been angered by the protest. This week a Cape Town magistrate summarily tried a prosecutor, Christelle McKenna, for delaying the court by an hour, and sentenced her to R300 or 10 days in jail.

McKenna refused to pay the fine, but the Prosecutors' Association of South Africa offered legal backing to take the matter on appeal and was she granted bail of a token R1.

A similar case at the Wynberg magistrate's court has been postponed for further argument.

More than 80 percent of prosecutors are involved in the protest, and the rest are expected to join them.

Their refusal to work overtime has led to cases being withdrawn as magistrates refuse to grant repeated postponements.

The Society of State Advocates, whose members prosecute in the Supreme Court, decided on Friday to support their lower-court colleagues and will begin a similar work-to-rule protest tomorrow.

The state advocates will also protest against the decision to employ advocates from the private sector on contract.

They say the money for these contracts should be used to improve salaries and employ more full-time state advocates.

And state attorneys, who represent the state in civil cases, have formed an organisation to focus on similar grievances. They too plan to protest this week.

Omar said he did not agree with the action but public servants had the right to protest, provided they did not undermine the administration of justice.

He said he would meet prosecutors and state advocates "to work out a position". He thanked those who remained at their posts.

A spokesman for the prosecutors, Faik Davids, said legal representatives would be appointed for prosecutors convicted of contempt of court.

Protest won't hurt Supreme Court yet

(252) Star 15/9/96

By LARA SMITH

A decision by the Society of State Advocates to join prosecutors in a work-to-rule protest will have an effect on the Rand Supreme Court only when it comes out of recess on July 29.

"It is fortunate it is happening now, because it is a quietish time at the court," Witwatersrand Deputy Attorney-General Kevin Atwell said yesterday.

The Witwatersrand A-G's office was already short-staffed, with three deputy attorney-general posts, and about seven senior prosecutor and two junior prosecutor posts vacant, he said.

If the work-to-rule action continued after court resumed, it could have severe repercussions for the court.

But the effects may not be as severe as in the magistrates' courts, where cases were being withdrawn and criminals acquitted as magistrates refused to grant repeated postponements because prosecutors were not ready, Atwell said.

The Supreme Court started only at 10am, so advocates still had time to prepare without coming in earlier than their official starting times. Also, fewer cases were heard each day — only one or two in a court, he said.

Advocates decided on Friday to join magistrates' court prosecutors

in the countrywide work-to-rule protest they embarked on last week. More than 80% of state prosecutors have joined the protest so far and, despite almost impossible case loads, are refusing to work overtime until their demands for better working conditions and higher salaries are met.

The state advocates are also demanding a stop to the practice of employing advocates from the private sector on a contract basis. This money could be better used to improve salaries and employ more full-time workers, they feel.

Atwell said he was hopeful the issue would be resolved before the Supreme Court came out of recess.

Non-profit arbitration service offered

By Patrick Phosa

(252) (48) STAR 15/7/96

The legal and accounting professions have joined hands with the formal business community to form a non-profit company to provide a national arbitration service

The Arbitration Foundation of Southern Africa (Afsa), which was launched earlier this month, has been set up to settle issues ranging from sporting controversies to entertainment tussles or labour disputes and will serve the broad community with a cost-effective service for disputes involving not less

than R10 000.

The foundation has already dealt with two cases involving sums in excess of R37-million, Afsa chief executive Frances Turton said last week.

Afsa also aims to offer foreign players comfort during arbitration and recourse to dispute resolution in the context of international trade, collapsing trade barriers and hard currency disputes, Turton said.

She added that the formation of the organisation did not imply criticism of the judicial system or an attempt to bypass it.

"We are simply trying to respond to the pressures of the global village we now operate in and to provide a specialised service to cater to the complexities of modern trade. Of course, it is always better, and less expensive, for parties to settle disputes out of court.

"Unfortunately, even the arbitration route has in the past been too expensive for smaller businessmen and ordinary people. Our objective is to provide this service at the lowest possible cost and to help alleviate pressure on our courts," Turton said.

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COETZEE IS A LIAR

(252) Sowetan 15/7/96

Mamasela exposes the lies of SA's top hitman

By Mzimasi Ngudle

FORMER security policeman and self-confessed killer Joe Mamasela yesterday hit back at former Vlakplaas commander Dirk Coetzee, calling him a "psychopathic liar" who told selective truths to ingratiate himself with the African National Congress.

"He is completely mentally unstable with an immense potential for self-destruction. He cannot distinguish between fact and fiction," Mamasela said.

Coetzee, who said at the weekend he felt betrayed and thrown out as a "used condom" by both the National Party Government and the ANC after KwaZulu-Natal Attorney-General Tim McNally ordered his arrest in connection with the 1981 murder of Durban lawyer and activist Griffiths Mxenge, has warned former colleagues to reconsider confessing.

McNally has also ordered the arrest of Brigadier Jan van der Hoven, Captain Andy Taylor as well as former Vlakplaas operatives Almond Nofemela and David Tshikalanga on the basis of new evidence furnished by Mamasela.

Coetzee has said Mamasela, who has confessed to Mxenge's murder, was an opportunist who was not present when the orders to kill Mxenge were given. "He's got more skeletons to hide than he ever disclosed publicly. I want him to challenge me on that one," he said.

Mamasela refuted Coetzee's allegation that he (Mamasela) was not present when the order to kill Mxenge was given. "On that day Coetzee was dead drunk. He does not know what happened."

He is including some of the

He killed a white woman in Port Elizabeth. He attempted to kill Advocate Kuyi, SC, at the Botswana border post but was stopped by police because they wanted to maintain sound relationships with Botswana. He had a limpet mine with him to blow Kuyi up.

"He also killed a diamond dealer in Lesotho and paid me R200 to keep quiet about the killing. He has been patronising David Tshikalanga and Almond Nofemela so that they don't say a word about the killing."

"Last Thursday I went to his home and gave his R200 back after he demanded it," Mamasela said.

Mamasela said Coetzee, who is employed as an agent for the National Intelligence Agency, also "stole" classified NIA information implicating senior ANC officials in human rights abuses in exile.

Derogatory statements

"He gave me the information to publish. I did not do that because I'm tired of his patronage. He uses me, Tshikalanga and Nofemela to portray himself as a comrade and a hero to blacks," Mamasela said he did not want to be involved in arguments but was tired of the derogatory statements Coetzee made about him in the Press. That man was commander of Vlakplaas. When the ship sank he bolted out first and is now out there to run himself. He is still the unrepentant Afrikaner who calls the ANC a terrorist organisation.

Last year, after a drinking spree with his 19-year-old son, they knocked dead a black man while driving a car given to him by the ANC.

He later boasted that 'Ons het a fat-fir opgelok met 'n terroriste. Fat-fir' Mamasela said.

PROSECUTOR CHARGED WITH CONTEMPT

Omar may be subpoenaed

CF 15/7/96

(252)

THE LABOUR DISPUTE between prosecutors and the department of Justice may now involve the relevant minister having to appear in a court case as a witness after a Wynberg prosecutor was charged with contempt of court.

THE Minister of Justice, Mr Dullah Omar, may be subpoenaed as a witness in the trial of a Wynberg prosecutor on a charge of contempt of court after failing to start his court on time.

This was said on Friday by Mr Justice Gubbay, counsel for Mr Joon, during an application for postponement of Joon's trial on a basis that he needed time to prepare a defence and possibly instruct senior counsel.

Erasmus told magistrate Mr Joon that in addition to Omar, he wanted to consult with various lawyers.

Van Zyl said he did not want to come involved in a labour dispute but order had to be maintained in his court in the public interest. It was the one-sided action Joon and the accompanying solicitor state of affairs which left an impression that he had contravened the Magistrates' Court Act, 1971, Zyl said.

Erasmus said Joon was prepared to give an undertaking that pending the finalisation of the matter, he would conduct his duties as a prosecutor to the best of his ability. Joon's trial was postponed to this Friday.

Earlier on Friday, Athlone Magistrate's Court prosecutor Ms Christelle McKenna was arrested on a charge of contempt of court and was ordered to be held in the police cells.

This came after the magistrates met and decided they would warn prosecutors they could be in contempt of court if they did not start court in time, said Mr Faek Davids, senior state prosecutor at Wynberg.

He said McKenna had told the magistrate she had heard the admonishment and did not wish to be in contempt of court.

She was charged when she started her court at 10 20am. McKenna was refused legal representation and fined R300 (or 30 days) and ordered to be held in the cells. Later, a police guard was stationed outside her office. An application for leave to



HELD IN CELLS: Prosecutor Ms Christelle McKenna was released on bail of R1

appeal was brought later the day and she was released on bail of R1.

Davids said "The attorney-general feels we have acted correctly and are fully behind the prosecutors. The emotional response of the magistrates is intimidation and victimisation of the prosecutors. This type of unprofessional and emotional response will not be tolerated by prosecutors. We will defend ourselves vigorously." This issue is not between mag-

THE TIMES

Mr M J Rodgers, Ottery. Why is there no coverage of local NSL first and second division soccer match reports? What is happening to your sports department? Are they selective in their reporting? Craven Week rugby receives attention every day. We pay to read the Cape Times.

Mrs N Gotlieb, Wynberg. I would like to express my dissatisfaction with the production of Snow White and the Seven Dwarfs. A very amateur production, and an insult that we had to see it at R12 a ticket.

Mrs B Cook, Retreat. Mr President, we are proud of you. We know that what you are doing overseas can only benefit all South Africans.

Mr R Dees, Kalk Bay. Referring to the article on the front page of the Cape Times Friday, July 12 the former prime minister is known as Baroness Thatcher and not Mrs Margaret Thatcher.

Mr C Alson, Ravensmead. President Nelson Mandela's speech at Westminster Hall was the greatest to date. Talking about the Germans and Jews, he asked the world "why did we allow this to happen?" As we all know, for many years many countries used to connive behind poor statements such as 'we cannot interfere with other countries' laws. People were being killed by those dictators who played god.



Mrs H L A Walker, St James. Referring to Mrs Kay Swengd's PostScript, July 11: lower inflation does not mean lower price.

Abort

DR J LUYT (July 10) is confused about on demand and abortion on demand, slogan implying callous, unconsidering a pregnancy is taken does not require the consent of a husband or partner (the latter relationship); that there is no considerable hardship and expense available but should be non-invasive.

The request for an abortion is to find a "quick-fix" for an awkward who are pro-choice have a higher more compassion for those trapped unwanted pregnancy. We do not undertaken lightly.

Nor do we subscribe to outdated unable to make abortion decision turmoil in early pregnancy. On individuals who have accurate information and who should be empowered which affect their present and future.

Unfortunately, under restriction act and the type of law envisaged to "duck off the street" to a back-patronsing and patriarchal right complete with counselling (by women in SA have for 21 years criminalised them and took away about an intensely private matter reconsider its decision on abortion trimester, the government is to be and encouraged by all democratic the new legislation as soon as possible.

DR M DYER
PRESIDENT, ABORTION RIGHTS ASSOCIATION

Amnesty applicant tortured, killed 'to protect the economy'

The Argus Correspondent

PRETORIA - A former security guard today described in detail how he had tortured and killed a black colleague suspected of involvement in a robbery from Fidelity Guards

The murder was aimed at helping the government of the day to "protect the economy" against robberies by members of liberation organisations, Hendrik Gerber said in an amnesty application before the Truth and Reconciliation Commission

Gerber, a former policeman, was head of Fidelity Guards' investigations division at the time of the murder in 1991

He and colleague Johan Andre van Eyk were jailed for 15 and 20 years respectively for the murder Samuel Kganakga

Gerber said the murder was politically-motivated because there was a suspicion that the robbery had been carried out

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by Pan Africanist Congress members Gerber said he had been a member of the National Party at the time and believed his investigation of the robbery was part of the "power struggle against an armed takeover" by the PAC or the ANC

"As a member of the NP, I acted in a bona fide way not only to protect Fidelity Guards, but to protect the economy, because the crime was aimed at damaging the economy," he said

Gerber said he and four colleagues had taken Mr Kganakga to a wooded area in Cleveland, where they hanged him upside down from a tree, lit a fire under his head, tortured him with electric shocks and finally shot him when he tried to escape

The amnesty committee, headed by Mr Justice Hassen Mall, is sitting in the CSIR conference Centre in Pretoria. Evidence will be heard until Friday

Omar's plan fails to stop protest by prosecutors, advocates

State advocates joined the work-to-rule protest by prosecutors yesterday, while Justice Minister Dullah Omar attempted to prevent a breakdown in the criminal justice system by offering them a compromise deal on benefits

Omar offered the prosecutors a relief package, which includes salary increases and higher rates for overtime work

But it was not clear last night whether the prosecutors would end their protest action. Their association met, but did not issue a response

However, the association's

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chairman, Blackie Swart, said earlier in an interview on SABC television that they would not resort to all-out strike action "We are responsible people and won't do that," Swart said

Omar is expected to meet the Prosecutors Association of South Africa today in an attempt to break the deadlock, which is threatening the administration on criminal justice

Michael Pinnock of the Association of Law Societies said in his TV interview that the work-to-rule protest could not have come at a worse time for the country

The message being sent out is that crime does pay. Criminals are being released because magistrates cannot continue granting extensions"

The ANC said in a statement yesterday that the prosecutors and state advocates should stop their protest immediately and attempt to work with the justice department to find a solution to their grievances

Omar told a media conference in Pretoria that the department's approach "more than meets state advocates and prosecutors halfway"

However, he said demands by prosecutors and advocates for salary parity with magistrates were more difficult to meet because the Prosecutors' Association of South Africa had earlier accepted a salary agreement in the Central Bargaining Chamber

"If you then look at disparity, I consider the action totally unjustified," Omar said

But, within the framework of the agreement, advocates and prosecutors could be placed on higher salary notches on merit, which, he said, would reasonably improve their positions - Sapa

-UN DUW SUPPLIAGE INOGE DAN |

Truth probe told of torture, death

(252)

Security guards admit hanging man
upside down, lighting a fire under
his head then shooting him as he fled

Star 16/7/96
By ROBERT BRAND

A hideous tale of torture and murder unfolded before the Truth and Reconciliation Commission yesterday when two former Fidelity Guards security officials testified on their own behalf in an amnesty hearing.

Hendrik Gerber (47) and Johan van Eyk (42), both former policemen, are applying for amnesty for the 1991 murder of a Fidelity Guards subordinate suspected of complicity in an armed robbery.

They claim their crime was politically motivated because they thought armed gangs were at that time robbing financial institutions to fill the coffers of liberation organisations.

They were convicted in 1993 of killing Samuel Kganakga, a security guard whom they thought "had connections with" the PAC.

Gerber was sentenced to 20 years' jail and Van Eyk to 15 years.

Gerber and Van Eyk described to the commission in Pretoria yesterday how they had taken Kganakga to a wooded area in Cleveland, pulled a bag over his head, hanged him upside down from a tree for eight hours, administered electric shocks to his body and lit a fire under his head "to make him more uncomfortable".

Gerber shot him when he tried to run away after being let down from the tree. Van Eyk, the son of a former police district commissioner, Major-General Mulder van Eyk, then took the body to Benoni, where he poured petrol over it and set it alight.

Two days later he went back to the scene with a colleague and found that Kganakga's right arm had escaped the flames. They went to a shop, bought an axe and chopped off the arm to prevent identification of the body, Van Eyk said.

Gerber served seven years in the police before joining Fidelity

Guards, and Van Eyk 17 years. They both held the rank of detective-sergeant when they resigned. When the murder was committed, Gerber was head of Fidelity Guards' investigations division. Van Eyk was an investigator.

The murder followed an armed robbery at the Fidelity Guards Hillbrow branch in 1991, in which one guard was shot dead and R4,2-million stolen.

The money was retrieved the next day.

Gerber, convinced it was an inside job, received a tipoff that Kganakga "had connections with" the PAC and immediately suspected him of involvement in the robbery.

"We had information that these organisations (PAC and ANC) needed funds and that they were attacking financial institutions to fill their coffers. The message from the security branch was very clear: that we were being infiltrated by left-wing groups," Gerber said.

Both Gerber and Van Eyk said they worked closely with the police, especially the Brixton murder and robbery unit, where both had been stationed during their time in the police. They said the methods they had used to interrogate Kganakga were methods they had learnt while in the police force.

Van Eyk testified that he had once helped Vlakplaas commander Eugene de Kock to infiltrate an Eastern Cape gang by providing him with an informant who knew the gang and the area. De Kock wanted to supply the gang with booby-trapped ammunition which would explode when fired. The plan was never carried out, Van Eyk said.

Gerber and Van Eyk both said they were members of the NP and had acted in accordance with what they thought the policy of the government was at the time. "I wanted to strengthen the hand of the government," Gerber said.

Omar has no (252) powers

over pay

Sowetan 16/7/96
By Josias Charle and
Mongadi Mafata

THERE is nothing the Department of Justice can do at this stage to resolve the work-to-rule protest by public prosecutors as they have already accepted the state's pay offer, Justice Minister Mr Dullah Omar said yesterday.

Omar told a Press conference in Pretoria that prosecutors and state advocates were still part of the public service and as a result they had negotiated within the Central Bargaining Chamber.

Prosecutors have been on a work-to-rule for a week, while state advocates joined the action yesterday, demanding salary increases similar to those awarded to magistrates as well as delinking from the public service.

Magistrates received 50 percent salary adjustment while prosecutors were awarded an average of 13 percent. Magistrates were able to negotiate for their own increases through the Magistrates' Commission.

Salary packages

Omar said he had no powers to negotiate salary packages for prosecutors and state advocates but had given instructions that legislation be finalised so that Parliament could deal with it this year.

Meanwhile, the 210-strong Society of State Advocates (SSA) will meet Omar tomorrow.

SSA chairman Advocate Retha Meintjes, said yesterday that they did not begrudge magistrates their 50 percent salary rise.

"This is totally unfair because the Government did not consider our experience and qualifications when they announced our increases," he said.

The Justice Ministry recently announced that state advocates and prosecutors would get salary increases ranging between nine and 13 percent.

Meintjes said some of the demands to be tabled at tomorrow's meeting with Omar would include a request that they be delinked from the Public Service salary structure and that their salaries be in line with those of magistrates.

McNally joins courts protest

CT 16/7/96

(252)

MARITZBURG Natal Attorney-General, Mr Tim McNally, has joined members of his staff embarking on a 14-day work-to-rule campaign called by the Society of State Advocates in protest against salary structures

Meanwhile, Justice Minister Dullah Omar has announced that he will approach the cabinet to make extra funds available for pay increases

According to news reports, Omar said he would meet representatives from the Prosecutors' Association of South Africa today in an attempt to break the deadlock which is threatening the administration on criminal justice

McNally issued a statement late yesterday saying he supported the state advocates and public prosecutors in their claim that the existing disparity between their salaries and those of magistrates could not be justified, McNally said

As the supreme court was in recess until August 1, the work to rule by state advocates was not likely to impact adversely on the convenience of the public, McNally said. Steps would be taken to try to avoid an extension of the 14-day protest period

Attorneys-General will meet with the Minister of Justice on July 23 and negotiations will continue between the Society of State Advocates, the minister and Department of Justice

Omar yesterday said he has proposed that state advocates and prosecutors should be upgraded. However, these proposals should first be approved by the Public Service Commission

Omar yesterday also unveiled a number of measures aimed at addressing the grievances raised by state advocates and prosecutors. He has proposed overtime pay for prosecutors and state advocates, to be calculated on individuals' salary scales — Special correspondent, Staff Writer

Go-slow causing logjam at courts

LINDSAY BARNES
and LENORE OLIVER
Staff Reporters

THE court backlog in the Western Cape is increasing daily as a result of the work-to-rule campaign by prosecutors.

This could mean awaiting trial prisoners, including many arrested in the police anti-crime blitz, could wait months for their cases to be finalised.

Western Cape prosecutors' spokesman Faiek Davids added that a situation could soon be reached in which trials would be crowded out because of lack of time.

Already, at least one case has been thrown out of court because of the work-to-rule.

Many cases were being postponed because of the short court day caused by the go-slow. State witnesses were being told to come back on another date because the court was not able to deal with their cases by the end of the day.

Western Cape prosecutors have said they would reconsider their protest action only once Justice Minister Dullah Omar gave a written undertaking to address their grievances.

Mr Omar yesterday unveiled new proposals to avert the continuing work-to-rule protest, including a revamp of overtime and salary scales to be calculated on individuals' salary scales backdated to July 1.

The prosecutors have asked Mr Omar to unlink prosecutors from the civil service within six months and to investigate two incidents in Wynberg and Athlone in which two prosecutors were charged with con-

tempt of court because they arrived after 9am.

They also are demanding parity between their salaries and those of magistrates' backdated to July 1.

Yesterday, magistrates' courts at Wynberg started only about 11am and at Cape Town Regional Court only one court was in session by 10am.

Mr Davids said "The backlog is increasing daily and soon it will take months for a matter to be finalised, especially in the case of an accused in custody who would have a long wait."

Western Cape Attorney-General Frank Kahn said prosecutors' representatives were meeting Mr Omar today.

If successful, the protest soon could be over.

While the police had not yet suffered at the hands of the work-to-rule protest, the timing was unfortunate, said Western Cape Police Commissioner Leon Wessels after the first week of stepped-up action against criminals.

Last week, roadblocks and raids in a three-day blitz netted more than 1 600 suspects, said Commissioner Wessels.

The number of arrests could worsen the threatened logjam of court rolls, he added.

Meanwhile, Mr Kahn has taken legal advice on allegations of victimisation of prosecutors by magistrates and warned he would challenge this in the Supreme Court.

The National Party has criticised Mr Omar, saying, "The African National Congress continues to link problems to apartheid, or just blame the previous government."

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(252)

Torture 'politically motivated'

Stephane Bothma

PRETORIA — Two former Fidelity Guards employees who first tortured and then murdered a colleague suspected of being involved in armed robberies had done so in the interest of the country, the truth commission's amnesty committee was told yesterday.

Hendrik Gerber, serving 20 years, and Johan van Eyk, serving 15 years for the 1991 murder of Samuel Kgwanakga, have applied for amnesty, claiming their crime had been politically motivated in that their victim had been connected to a group of PAC members involved in armed robberies at the time.

The two men told the amnesty committee, chaired by Judge Hassen Mall, how they used a home-made "stock machine" on Kgwanakga while he was hanging upside down from a tree.

Their victim hung from the tree for about seven hours with a bag pulled over his head while he was being questioned about a R4,2m robbery which took place earlier and in which another Fidelity Guard employee had been killed.

They were drinking while doing this, Gerber said.

Gerber also said "no human being in his right mind can inflict such torture without his conscience bothering him."

Kgwanakga was shot several times after the torture, before his body was set on fire. But his one hand was not damaged by the fire and was chopped off the next day.

Gerber and Van Eyk, both policemen before joining the investigating unit of Fidelity Guards — the latter the son of a police general — told the committee that they had not acted in their own interest or that of Fidelity Guards by torturing Kgwanakga.

"They did it solely within the political climate of the time,"

It had been important to obtain information about the conspiracy of the ANC/SA Communist Party and PAC to halt a communist takeover of the country, they both testified.

Solving the robberies, committed by PAC members to fund their organisation, would have been in the interest of the country.

"The political climate of the time completely intimidated me to be committed and to act without mercy," Van Eyk said. He did not hate black people.

Both men apologised to the family of the dead man.

"I now realise that what I did at Fidelity Guards and in my career as a policeman would not have solved the problems of our country," he said.

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(252)

Both men joined the SA Police at a young age and said they had constantly been exposed to violence. Their methods of "questioning" Kgwanakga were similar to those used by the police.

The hearing continues today.

Sapa reports the ANC's Peter Mokaba and members of his family will appear before the truth commission's human rights violations committee in Pretoria in Northern Province this week.

Mokaba, a former ANC Youth League president, said yesterday he would make a submission regarding his harassment, torture and detention.

It would also include the 1986 bombing of his family's residence in which his brother Ernest was injured.

"We want to know who the people are who were actually involved," Mokaba said.

The three-day hearings will begin tomorrow at Pretoria's Nirvana civic hall, and they will be conducted by commissioners Wynand Malan, Russel Ally and Hlangirwe Mkhize.

Thirty-five cases will be heard, including the disappearance of former Mamelodi Civic Association secretary-General Stanza Bopape and the death in police custody of the region's United Democratic Front president, Peter Nchabalang.



Former policemen and Fidelity Guards staffers Johan Van Eyk, left, and Hendrik Gerber testify at the truth commission's amnesty committee sitting in Pretoria yesterday. Picture: TREVOR SAMSON

BD 16/7/96

Pay shock for state doctors

AN ADMINISTRATIVE blunder by the public service and administration department would result in many state doctors taking home less money this month than ever before, the Medical Association of SA (Masa) announced yesterday.

Doctors' overtime allowances had been cancelled prior to the implementation of a new overtime structure announced by the health department last week, Masa said.

Government's failure to deliver timeously on promises to improve doctors' lot had negatively affected their morale, Masa spokesman Prof David Morrel said.

"In the belief that they will at long last be rewarded for their effort, many doctors have been hanging in there, working far more than 12 hours a day to provide medical care to patients dependent on public health services."

The problem with the pay cheques came as the last straw for many doctors, Morrel said.

They had been promised back pay, but there was no guarantee when the money would be forthcoming — Sapa.

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Omar to meet prosecutors today

Deborah Fine

THE Society of State Advocates and the Prosecutors' Association of SA are to meet Justice Minister Dullah Omar today to discuss their salary demands.

The meeting follows Omar's offering to disgruntled prosecutors of short- and long-term solutions to their grievances, and an announcement by the State Advocates' Society at the weekend that they would join prosecutors in their work-to-rule protest.

Magistrates' courts countrywide have been disrupted by protests in which more than 80% of state prosecutors have refused to work overtime until their salary demands have been met. Similar action by State advocates could disrupt the Supreme Courts.

Omar said yesterday that the justice department supported the delinking of prosecuting authorities from the civil service and would attempt to have the necessary legislation approved by Parliament before the end of the year.

He said, however, that it was an il-

lusion to believe his department could solve overnight problems which had developed more than a decade ago.

Salary increases would be difficult to meet as the prosecutors' association had accepted a salary agreement in the central bargaining chamber. Advocates and prosecutors could, however, be placed on higher salary notches which would improve their positions.

Further short-term relief included unfreezing 46 senior prosecutor posts, improving overtime rates and scrapping the maximum salary notch for overtime which meant advocates and prosecutors could claim overtime.

The NP, meanwhile, has slammed Omar's claim that his department could not correct the problems immediately. "Mr Omar should realise the ANC has actually been in government for two years and they are supposed to have the ability to improve the lot of civil servants. Mr Omar has been in a position to look after the interests of his officials for more than two years," a statement said.

Rescued professor rests after icy interlude

UNIVERSITY of the Witwatersrand professor Tony Trail was resting yesterday after being snowbound for eight days in Lesotho's Maluti Mountains.

Trail, his wife Jill, fellow Wits professor Tim Couzens and Canadian backpacker Lisa Vincent were driving through Sam Pass on the Lesotho border when their four-wheel drive vehicle skidded off the road and stopped dangerously close to the cliff's edge.

They "remained in that precarious

position for eight days", hoping the vehicle would not topple.

Vincent and the Trails were resting in a family home at Underberg in KwaZulu-Natal after the four were rescued by a SAAF helicopter just before 9am yesterday. Couzens was in a stable condition in hospital.

Meanwhile, the Lesotho Defence Force fears more people who had not been reported missing might be trapped in the mountains — Sapa

Prosecutors' pay wrangle looks to be nearing end

(252) (102)
BY HELEN GRANGE

Nov 17 196
An end to the work-to-rule by prosecutors and state advocates looks imminent amid growing political pressure to stop the action in view of the Government's concessions offer and further "positive" discussions yesterday. Justice Minister Dullah Omar met the Society of State Advocates, the Prosecutors Association of SA (Pasa) and representatives of prosecutors in the former self-governing territories for two hours to discuss details of his proposal this week to upgrade salaries and overtime rates.

His proposals must be approved by the Public Service Commission, after which the Cabinet will be asked to make the money available.

Omar's office said the meeting took place in a "positive spirit" and that representatives undertook to report back to their members as soon as possible.

Pasa chairman Blackie Swart could not be contacted for comment yesterday, but reports indicated a deepening crisis in courts as postponements created increasing backlogs.

In the Western Cape, many of those arrested in the current police anti-crime blitz could now wait months for their cases to be finalised.

The region's prosecutors have asked Omar to delink prosecutors from the public service within six months and to investigate two incidents in Wynberg and Athlone in which two prosecutors were charged with contempt of court after they arrived late.

They are also demanding parity between their salaries and those of magistrates - backdated from July 1.

Omar unveiled a number of proposals on Monday, including proposed overtime pay and the unfreezing of 46 senior state prosecutors' posts.

Prosecutors in the Eastern Cape are expected to meet tomorrow to consider Omar's proposals and decide on future action, a spokesman, William Pretorius, said yesterday.

The ANC, which believes the action is unjustified, has urged prosecutors and state advocates to stop their action and join the Justice Department in finding a solution.

Meanwhile, the SA Police Union has threatened labour unrest if the salaries of prosecutors and advocates are increased and the police do not get the same treatment.

Sapu official Andy Miller said that although police had been promised a "major increase" by national commissioner George Fivaz, they in fact got exactly the same as the rest of the public service.

Witness disputes 2 colleagues' evidence

(252) Sowetan 17/7/96

By Mzimasi Ngudle

A WITNESS yesterday refuted part of the testimony of former colleagues and amnesty applicants, ex-policemen Hendrik Gerber and Johan van Eyk, saying he was not aware of any political motive leading to the 1991 torture and eventual murder of Mr Samuel Kganakga.

Those applying for amnesty should prove that the gross human rights violations they committed were associated with a political objective.

On Monday Gerber and Van Eyk, serving 20 and 15 years in jail, respectively, for murdering

Kganakga, told the Truth and Reconciliation Commission's amnesty committee in Pretoria that they had believed they were strengthening the government's hand in fighting crime and terrorism when they set out to interrogate Kganakga.

They said they had received information that Kganakga was a member of the Pan Africanist Congress. He had infiltrated Fidelity Guards to facilitate a R4,5 million robbery allegedly committed by the Azanian People's Liberation Army.

Gerber and Van Eyk said they saw themselves as part of a giant state machinery fighting a total

onslaught in the form of theft and robbery of money by armed wings of liberation movements to raise funds for their organisations.

But yesterday Mr Jack Nkoana, who was present when Kganakga was tortured near a mine dump at Cleveland, said their investigations were aimed at rooting out crime.

Nkoana said Gerber and Van Eyk had at no stage asked Kganakga about his political association.

Nkoana said he was present when Kganakga was given electric shocks by Gerber, Van Eyk and Francis Oosthuizen while hanging upside down from a tree.

End to prosecutors' protest imminent

(252) (172)
SPECIAL CORRESPONDENT

CT 17/7/96

JOHANNESBURG. An end to the work-to-rule protest by prosecutors and state advocates looks imminent in view of the government's concessions offer and further "positive" discussions yesterday.

Justice Minister Dullah Omar met the Society of State Advocates, the Prosecutors Association of SA and representatives for prosecutors in the former TBVC and self-governing territories to discuss his proposal to increase salaries and overtime rates for prosecutors and state advocates.

His proposals must first be approved by the Public Service Commission, after which the cabinet will be requested to make extra funds available.

Omar's office said yesterday the meeting took place in a "positive spirit".

Omar's offering to lawyers fails and work to rule goes on

Sapa and Staff Reporters

(252) (S)

PRETORIA. - Justice Minister Dullah Omar's proposals for a relief package for state advocates and prosecutors did not meet their demands, and their work-to-rule protest would continue, spokesmen for the Society of State Advocates and Public Prosecutors' Association said today

But the proposals would be discussed with members of the two bodies, while the work-to-rule by public prosecutors and state advocates continued.

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Meanwhile the associations welcomed the minister's commitment to the principle of parity between prosecutors and magistrates of equal qualifications and experience. This was their reaction to yesterday's meeting between Mr Omar and representatives of the two bodies, and of the Legal Staff Association of South Africa, in Pretoria, where Mr Omar's proposals were discussed.

The bodies also welcomed his commitment to resolving the crisis, which was threatening to lead to a breakdown in the criminal justice system.

The political debacle that had arisen as a result of the action was unfortunate, but the former National Party government had been "unable to address this very same issue", the spokesmen said

TRC invites Judge Harms to discuss Third Force

JOHN YELD

on the Truth Commission

(252)
ARC 17/7/96
THE Truth and Reconciliation Commission has invited Appeal Court judge Louis Harms and KwaZulu-Natal Attorney-General Tim McNally to discuss with it the findings of the 1990 Harms Commission of Inquiry into political murders and "Third Force" activities.

Faxed invitations were yesterday sent to Judge Harms, head of the commission, and to Mr McNally, who led the evidence.

This was revealed at a press conference today by the commission's deputy chairman, Alex Boraine, and follows a decision taken by the commission yesterday.

Dr Boraine, acting chairman in the absence of Archbishop Tutu who is in Atlanta for the start of the Olympic Games, said the invitation for a private meeting had been made after new evidence, which had emerged about hit squad activities and political murders since the publication of the Harms Commission report in November 1990.

In the report, Judge Harms dismissed completely allegations of police hit squad activities, and although damning the SADF's covert Civil Co-operation Bureau (CCB), did not make any findings about who was responsible for politically motivated murders that like of Wits University academic David Webster.

Judge Harms specifically dismissed the evidence of security policeman and self-confessed hit squad leader-turned-ANC informer Dirk Coetzee, who headed the police's notorious counter-insurgency unit based at Vlakplaas.

But last week, Mr McNally issued a warrant for the arrest of Mr Coetzee and four other former security policemen in connection with the 1981 murder of Durban human rights lawyer Griffiths Mxenge.

Mr Coetzee has acknowledged organising the team which murdered Mr Mxenge.

Dr Boraine, who stressed that Judge Harms and Mr McNally had been invited, not subpoenaed, said the decision had been taken "in the constant search for information".

Other invitations would be issued to a number of people the commission believed could help it with its search for as full a picture of possible of human rights abuses in South Africa between 1960 and 1993.

If the invitations were rejected, the commission would not hesitate to issue subpoenas where necessary.

Dr Boraine said the warrant of arrest for Mr Coetzee was of concern.

"(This) is something quite new in the experience of the commission in that he's the first to be arrested subsequent to applying for amnesty."

But he dismissed criticism by Mr Coetzee that the commission was delaying dealing with his application for amnesty.

"In terms of the Act we are instructed that people in custody have to have preference in being heard," Dr Boraine said.

"There are so many people in custody who have applied, that this is taking all the time and energy of the amnesty committee, so Mr Coetzee should not be concerned."

Dr Boraine also queried Mr Coetzee's appeal to other former security force members not to apply for amnesty because of his (Mr Coetzee's) arrest.

"The fact that the courts are serious (about prosecuting human rights abusers) may encourage perpetrators biding their time, to apply for amnesty," he said.

For the commission to succeed in its work, there needed to be the "stick" of criminal justice proceedings and the "carrot" of possible amnesty.

"These need to be held in tension. Drop one, you lose opportunity to get the truth."

Guards 'suspended'

Trade unionist tells hearing two had history of assaults

(292) ARG 17/7/96

The Argus Correspondent

PRETORIA - Two former Fidelity Guards security officials who want amnesty for the murder of a subordinate had a long history of assaults on employees suspected of theft from the company, the Truth and Reconciliation Commission's amnesty committee has heard

Trade unionist Emily Fourie yesterday told the committee Hendrik Gerber and Johan van Eyk had previously been suspended and faced a disciplinary inquiry for an assault on a Fidelity Guards employee in 1989

Gerber and Van Eyk, both ex-policemen, have applied for amnesty for the 1991 murder of Samuel Kganakga, whom

they suspected of involvement in a robbery from the Fidelity Guards offices in Hillbrow. They hanged Mr Kganakga upside down from a tree, lit a fire under his head, administered electric shocks to his body and finally shot him when he tried to run away.

They claim the murder was politically motivated because they thought Mr Kganakga "was connected to" the PAC and the robbery had been committed to obtain money for the party's coffers.

Ms Fourie, the deputy general secretary of the Motor Transport Workers Union of which Mr Kganakga was a member, said claims that Gerber had assaulted employees during interrogation had first surfaced in 1985. Gerber was then

head of Fidelity Guards investigation division.

In 1987, an employee, Joseph Mokhojoe, disappeared after being interrogated by Gerber, she said. In September 1989, an employee claimed he was assaulted by Gerber, Van Eyk, and two other members of the investigation division. Doctors' records showed that a wire had been inserted into his ear and electric shocks administered to him, Ms Fourie said. The union demanded an inquiry, and Gerber and Van Eyk were suspended.

Some weeks later, Fidelity Guards management officials asked her whether they could lift the suspension pending the outcome of the inquiry. She agreed, on condition that a shop steward be present during all

interrogations and that Gerber and Van Eyk be placed on administrative duties where they would have no contact with other employees. These conditions were agreed to in writing by Fidelity Guards managing director CS McFarlane.

The inquiry against Gerber and Van Eyk never took place, Fourie said.

Counsel for Gerber, Harry Prinsloo, argued his client should be given amnesty because he acted in the bona fide belief that he was assisting the National Party government in the fight against the total onslaught.

Louisa van der Walt, for Van Eyk, argued that the objective of the interrogation had been to "expose the activities of Apla (the PAC's armed wing)".

Advocate urges rejection of killers' amnesty pleas

bsr
del
Stephané Bothma

PRETORIA — Two former Fidelity Guards employees murdered their colleague to conceal the fact that they had tortured him, not to further any political aim, the truth commission's amnesty committee was told yesterday.

Hendrik Gerber and Johan van Eyk, both former policemen who had joined Fidelity Guards' security division, had applied for amnesty for the 1991 murder of a guard, Samuel Kganakga.

Gerber is currently serving 20 years and Van Eck 15 years for the murder.

The two murderers earlier told the committee they had believed Kganakga was associated with the PAC's military wing, Apla, and had information about a R4,2m robbery and theft of R60 000 from Fidelity Guards.

They had tortured and assaulted him to obtain information to prevent other Apla robberies and, therefore, acted with a political objective, the committee heard.

Cocky Mpshe, the advocate representing the committee, argued that the amnesty applications should be rejected because

the two men had not acted to bring about political change or to change an unjust situation.

Although the applicants claimed they were members of the NP and had acted to avert an "onslaught" on the country, Mpshe said no political objectives were ever raised during their criminal trial or in a petition to the chief justice for appeal.

"In their trial they defended a pure criminal matter. This application is now a last resort," Mpshe argued before the committee.

Advocate Harry Prinsloo, representing Gerber, argued that his client complied with all the requirements of the Promotion of National Unity and Reconciliation Act and Gerber should, therefore, be granted amnesty.

"They acted in pursuit of the aims of the NP. They were involved in a war being waged from both sides and they were in fact defending their country," Prinsloo submitted in his argument.

He said the situation they found themselves in and their beliefs put their crime in the category of political motivation.

Apla had targeted financial institutions at the time to illegally

(252) BD 17/7/96
generate funds to finance their political activities, he said.

Another Fidelity Guards employee, Jack Nkoana, who was present during the torture of Kganakga — which involved the man being hoisted upside down into a tree while his private parts were being electrically shocked — told the committee that not once during the interrogation were any questions about Kganakga's political beliefs or affiliations asked.

Emily Fourie, a Motor Transport Workers' Union official who worked closely with Fidelity Guards at the time of Kganakga's murder, testified that Gerber and Van Eyk had previously been suspended for torture.

There had also been several claims by union members that Gerber had participated in assaults on employees suspected of criminal activities.

Another Fidelity Guards employee, Joseph Mokhojoe, had disappeared in 1987 after being "questioned" by Gerber, Fourie testified.

The committee, chaired by Judge Hassen Mall, will make a decision at a later stage.

The hearings continue today.

Prosecutors fear a collapse of justice

(252) Star 18/9/96

The crisis revolves around ineffective administration, and not just salaries or personal gripes

By PETER MICHAEL
Durban

Senior public prosecutor Ray Sansom sits behind a worn, old, paper-covered desk, lights his third cigarette for the hour and blows smoke at the ceiling. "I tried to give these things up at the start of the year," he says, slamming the packet down among piles of yellowed legal files. "Now I'm back up to more than 20 a day."

Around the smoke-filled room, gathered as if for an emergency war summit, are some of Sansom's most senior and trusted lieutenants. These young prosecutors, with an average age of 29, are already battle-hardened, weary troops in the fight for the pursuit - and survival - of justice in South Africa's most volatile province. But it is a battle they fear they are losing.

"It's like trying to swim in quicksand," says Val Meis, the lone female voice among the five prosecutors present at the impromptu meeting at Durban's law courts. "There's not a chance on earth we can cope if it stays like this."

These frightful sentiments are being echoed daily by colleagues in Durban and in every court across South Africa. It is of a judicial system on the verge of nervous breakdown. And it gets worse.

The South African Police Service, already under siege on the streets from a smarter, better armed, more violent breed of criminal, is riddled with corruption. An ambitious 30-day police crackdown on crime has been and gone and, with the probe, comes figures indicating that 866 officers are under investigation for charges including fraud, gun and drug-smuggling.

And then there are the nation's overflowing jails. The question plaguing law

and order officials is how to do justice to justice?

Ray Sansom, a career prosecutor who has dedicated 23 years to the system, does not profess to having a ready-fix solution. However he does know something has to happen soon - before it is too late.

"Really, we have got to speed

Minister's efforts may be too late

it up before either the system collapses or crime gets out of hand," he says, searching the eyes of his team for confirmation. "Our greatest concern is, without doubt, the effective administration of justice. We feel, as prosecutors throughout the country do, that we just cannot do our job properly, we cannot give quality

work while we are so overloaded and overworked. The end result is that justice suffers.

"This is not only about salaries, or personal gripes and groans, but about ineffective administration of law and order."

Justice Minister Dullah Omar yesterday threw the first lifeline to prosecutors - who are still enforcing their work-to-rule and no overtime action - by publicly pledging to "de-link" the payment of public prosecutors and advocates from the bargaining structures of the rest of the public service. But Omar's effort towards trying to avert a major crisis may be too late.

"We have been effectively busy with crisis management for the past few years, never mind the past few weeks," Sansom says, pointing to stress-related statistics crippling the ranks of his staff. In the past month alone, two prosecutors have been forced to stop work, on doctors' orders, for

stress-related illnesses. Durban has lost more than 20 prosecutors in the past 15 months, while Cape Town has already lost half of its original regional court staff this year.

"This is where the money comes in," says Patrick Abernethy (29), a specialist prosecutor on high-profile commercial matters already considered one of Durban's most senior advocates. "I've been a prosecutor for just six years and I'm considered senior. I'm not even 30 yet," he laughs.

"We need to retain experienced staff rather than allow this continual drain into the far more lucrative private sector."

Then there is esteem, high among fellow colleagues, but low in the public perception. There is no doubt the fate of South Africa rests on the speedy and responsible resolution of this crisis - if not, take a breath and consider the alternatives

Police tortured activists, truth hearing told

(252)

Star 18/7/96

Chilling tales of 'total onslaught' strategies come to light

SAPA
Pietersburg

Police harassment and the torture and detention of leading political activists in the "total onslaught" era of the 1980s was the focus of the Truth and Reconciliation Commission's first hearings in the Northern Province yesterday

Witnesses braced the unusual cold in the province's capital, Pietersburg, to give their accounts of SAP and Lebowa police brutality

It took less than 15 poignant minutes for the mother of former Mamelodi Civic

Association secretary-general Stanza Bopape to put her request to the human rights violations committee

Bopape was arrested by Hillbrow police in Johannesburg on June 9 1988. He was never heard of again. Police claimed he managed to escape from his captors after the vehicle he was travelling in had a puncture. Truth commissioner Russell Ally said police maintained to this day that Stanza had escaped.

But his mother, Francina, was adamant and incredulous. "I don't believe Stanza released himself and disappeared. I'm asking the police where they buried him. They know where my son is. They must give me my son. Even if it's his bones, I'll bury him."

Peter Mokaba's brother, Ernest, was one of several victims to testify before the commission.

He explained how he and his family, who were not politically active, had been beaten, harassed and detained by the South African and Lebowa police because of their link with his brother, now an ANC MP.

Mokaba was not present at his brother's testimony.

Mokaba - who had been a student leader during the 1976 uprisings - was hunted by police, arrested, detained, released and rearrested during the 1980s.

While he was in hiding, his family were hounded by police who thought that, by treating them in this way, they would flush Peter out, Ernest said.

Family members of former Northern Transvaal United De-

mocratic Front leader Peter Nchabeleng, who died in police custody, accused a school principal of being a police informer and trying to kill the veteran activist.

Nchabeleng's widow and son named David Segoo Oeberla - now a Northern Province school inspector - as the man allegedly behind a letter bomb sent to their father a few days before his death in police custody on April 11 1986.

The bomb, disguised as Nchabeleng's son's school results, was never triggered because he realised something was amiss.

Maurice Nchabeleng told the commission.

He also detailed how, after his father's death, he was arrested and taken to a garage where police claimed his father had been killed.

One policeman ordered him to wash his hands in his father's blood before he ate.

He refused and was tortured in the same room, Maurice said.

The commission was also asked to probe the death in police custody of PAC member and Lebowa Times journalist Lucky Kutumela (24), who died on April 5 1986.

His mother, Anna, told the commission that her son was killed by the Lebowa police in Mokopane police station.

According to witnesses, he had been kicked, assaulted with a gun butt, hit over the fingers with a hammer and whipped about 41 times with a sjambok.

Lucky died the following day.

The policemen were tried in court but none of the people who had witnessed the torture were called and his killers

were freed.

Kutumela said she had raised the matter with the Lebowa government in January 1994 but so far nothing had been done.

Police had accused her son of, among other things, writing biased reports about police brutality.

"The police hated him. He was an activist. I later discovered that the police always complained about his writings."

The commission hearings continue today.

Principal 'aware of bomb in report card'

Man told to wash in father's blood

Omar's relief package gets cool reception

(252) Sometan 18/7/96

Some 80% of prosecutors and state advocates continue working to rule

By HELEN GRANGE

Prosecutors and state advocates are considering Justice Minister Dullah Omar's proposals of a salary relief package and are expected to decide by the weekend whether to cease their work-to-rule action.

Omar's proposals, which include salary increases and higher rates for overtime, have met with a lukewarm response, with the result that the protest is still being adhered to by about 80% of prosecutors and state advocates around the country.

In a joint statement yesterday, the Society of State Advocates (SSA) and the Prosecutors' Association of SA (Pasa) said that, should Omar's proposals materialise, they would bring a "certain measure of interim relief".

But, Omar has warned that his proposals would fall away if they were not accepted.

Omar's spokesman Paul Setsetse said that improvements in salaries and working conditions could be authorised only by the central bargaining chamber.

"The minister has pointed out that until the law is changed and prosecutors and state advocates are delinked from the public ser-

vice, there is no escape from the central bargaining chamber," he said.

Pasa chairman Blackie Swart countered yesterday that Omar's proposals remained vague and the possibility of implementation uncertain. "I must stress we are not opposing Omar, but we can't just react to mere proposals.

"I think the protest action and the resultant chaos actually makes it easier for Omar to convince the Cabinet of the need for a resolution of this situation," he said.

The SSA and Pasa, in their statement, said the former NP government had been "unable to address this very same issue". The ANC has strongly urged the prosecutors to stop their action.

Urging the public to support their action, the two bodies said reports of accused being released as a direct result of the work-to-rule were exaggerated.

"Should we not take action, resignations by experienced and able prosecutors due to hopelessly inadequate remuneration packages will continue unabated," they said.

► Prosecutors fear collapse of justice

Murdering two black people 'didn't touch me'

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Amnesty seeker tells Truth Commission of fanatical belief

By ROBERT BRAND

A former University of Pretoria student told the Truth and Reconciliation Commission's amnesty committee yesterday he had "thought nothing" about gunning down two black people during an attempt to steal firearms for his neo-Nazi organisation.

"I was like an automaton, I was obeying orders," said Johan van Wyk (25), who wants amnesty for the 1991 murders of Makwalera and Wilson Dubani and Maria Roux while breaking into a Louis Trichardt house to steal arms.

Van Wyk and his co-applicant for amnesty, Jean du Plessis (25), were members of the National Socialist Partisans (NSP), a small ultra-right organisation aimed at maintaining the supremacy of the white race in South Africa.

The only other two members of the NSP, Matthew White and Jurgen Grobbelaar, were killed in a shootout with police at Noeneputs in the Northern Cape in 1991.

Van Wyk was sentenced to three consecutive life sentences for the murders and to jail terms

for several thefts and attempted thefts of arms and ammunition from military bases. Du Plessis was not convicted of the murders, but is serving 12 years on the firearms charges.

Van Wyk testified how, as a 13-year-old in Amanzimtoti, he had been introduced to far right-wing ideologies by the Du Plessis family. The Du Plessis were members of the neo-Nazi Church of the Creator, which reveres Adolf Hitler and believes in a conspiracy by blacks and Jews to exterminate the white race.

"It became a religion for me to fight the struggle of whites in South Africa and in the world at large," Van Wyk said.

Van Wyk and Du Plessis were friends at school. After a semester at Pretoria University and a year of military service, Van Wyk resumed his contact with Du Plessis, who invited him to join the NSP. He believed the NSP was the only group capable of establishing an Afrikaner volkstaat.

They were involved in an unsuccessful attempt to steal firearms from a military base in Louis Trichardt before deciding to break into a private house where they

knew they would find rifles.

White and Van Wyk staked out the house, but were discovered by the domestic worker, Makwalera Dubani. White shot her, then cut her throat, Van Wyk said. Dubani's husband, Wilson, saw them and ran away. White ordered him to shoot Dubani and he obeyed, Van Wyk said. White then cut Dubani's throat too.

While searching in a bedroom cupboard for firearms, White started shooting into the cupboard and Van Wyk "instinctively" followed suit. They discovered Roux's body inside, and White also cut her throat.

Van Wyk said that while the shooting of the two blacks "did not touch" him, the killing of Roux shocked him. "We had murdered one of our own."

They found no firearms, but later stole a large amount of ammunition from a military base in Oudtshoorn and robbed two rifles from military guards at Wallmannstal, near Pretoria.

Van Wyk apologised to the families of the Dubanis and Roux.

▶ Letter bomb killed dad

Prosecutors consider pay offer

The Argus Correspondent

PROSECUTORS and state advocates are considering Justice Minister Dullah Omar's proposals of a salary relief package and are expected to decide by the weekend whether or not to end their work-to-rule

But it may be "too little, too late" for some state advocates, who are reported to be seeking early retirement packages

Mr Omar's proposals, which include salary increases and higher rates for overtime work, have had a lukewarm response, with the result that the work-to-rule is still being observed by about 80 percent of prosecutors and state advocates

In a joint statement yesterday,

the Society of State Advocates (SSA) and the Prosecutors' Association of South Africa (Pasa) said that should Mr Omar's proposals materialise, they would bring a "certain measure of interim relief"

But Mr Omar warned that his proposals would fall away if they were not accepted, adding that he felt the protest was unjustified

His spokesman, Paul Setsetse, said improvements in salaries and working conditions could be authorised only by the central bargaining chamber of the public service

"The minister has pointed out that until the law is changed, prosecutors and state advocates are delinked from the

public service, there is no escape from the central bargaining chamber," he said

He said the minister's offer was formulated within these parameters and "there is no offer beyond that"

Pasa chairman Blackie Swart countered that Mr Omar's proposals remained vague and the possibility of implementation was uncertain

"I must stress we are not opposing Mr Omar, but we can't just react to mere proposals

"I think the protest action and the resultant chaos actually makes it easier for Mr Omar to convince the cabinet of the need for resolution of this situation," he said

The SSA and Pasa, in their

ARLT 18/4/98

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statement, said the political débâcle resulting from their action was unfortunate, but the former National Party government had been "unable to address this very same issue"

The African National Congress has strongly urged the prosecutors to stop their action, saying it is "unjustifiable"

But the two organisations, in urging the public to support their action, said reports of accused being released as the result of the work-to-rule were exaggerated

"Should we not take action, resignations by experienced and able prosecutors due to hopelessly inadequate remuneration packages will continue unabated," they said

Strike ends as chief security officer heads for TRC hearing

(252) AR 4/18/19/96

The Argus Correspondent

PORT ELIZABETH - A strike by 250 Gearmax factory chief security officer Ivan Erasmus was suspended indefinitely, with pay, until he appeared before the Truth and Reconciliation Commission (TRC).

National Union of Metalworkers of South Africa (Numsa) members at the plant had accused Mr Erasmus, a former riot policeman, of being a "racist" who boasted to workers how the riot unit had tortured and killed people in the 1980s. Anger over these allegations had threatened to spill over and paralyse the entire Eastern Cape motor industry.

The agreement reached between Numsa and Gearmax in Uitenhage yesterday, averting a strike in the region's motor industry, was hailed as "a breakthrough" by the union. Workers returned to work today, ending a strike which started on Monday last week. In the draft agreement Gearmax

signed with Numsa, it was stipulated that Numsa and Gearmax representatives were to seek a meeting with TRC officials.

This was to establish whether Mr Erasmus could be given time soon to testify on the allegations of human rights violations he had allegedly made to a shop steward during a discussion.

This was revealed by Numsa regional secretary Mbuyiselo Ngwennda, who handed a memorandum to Gearmax managing director Harry Marston during a demonstration at the plant by more than 500 shop stewards from metal-related businesses in Port Elizabeth and Uitenhage.

Gearmax personnel manager C Combear declined to comment on the agreement, saying it was not the com-

pany policy to comment on strikes. But in a statement on Monday Mr Combear said "Gearmax is not prepared to dismiss the security officer as an inquiry in terms of the accepted internal procedure with Numsa has been completed.

"Gearmax cannot compel employees to go to the TRC. This is a matter of personal conscience."

Mr Erasmus was a member of the police riot unit from 1974 to 1989 before joining Gearmax. Mr Ngwennda said the agreement between Numsa and Gearmax included Mr Erasmus's

indefinite suspension and secondly management and Numsa approaching TRC to ask it to give Mr Erasmus the earliest opportunity to testify.

"We are happy with the agreement which is a breakthrough and we also agreed that consultations be continued between the union and the manage-

ment to look into other matters to make the company acceptable to workers."

"We hope the company will honour the agreement," he said.

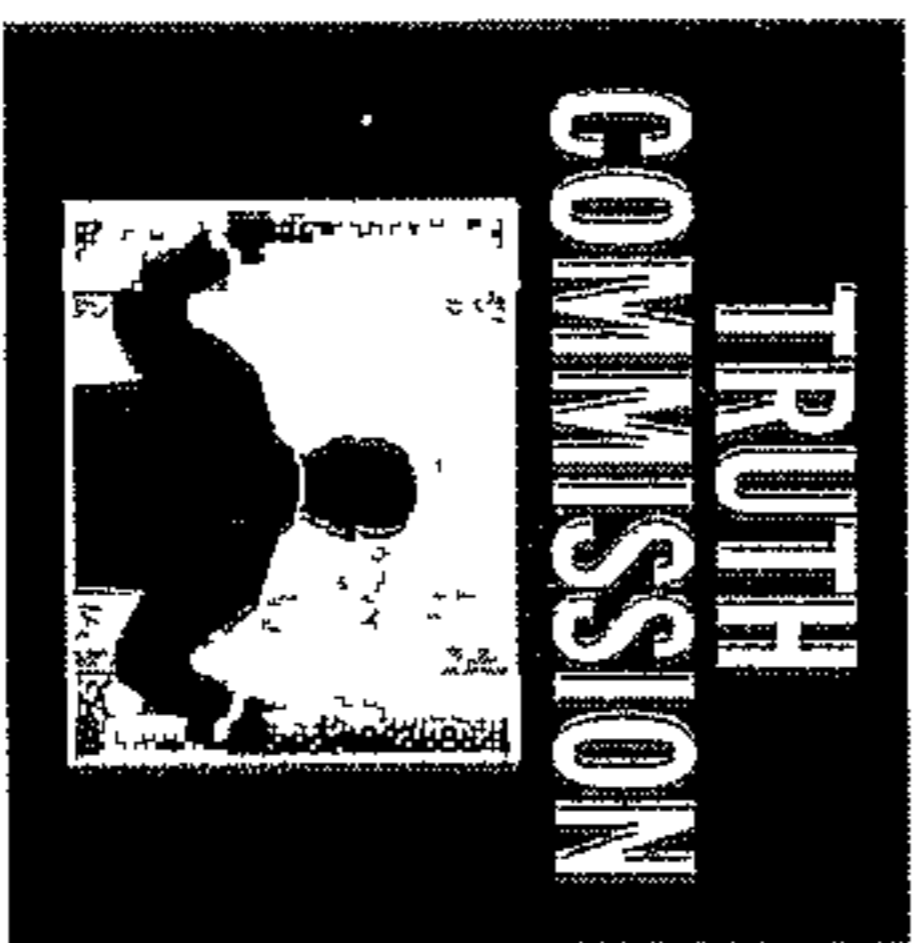
"It was agreed Mr Erasmus should be suspended with pay as we (the union) did not want to be so harsh seeing that the company had already given him a warning," he said.

Mr Ngwennda said after Mr Erasmus testified to the TRC, the union and management would meet to review the situation and decide whether it was possible for Mr Erasmus to go back to work for the sake of stability.

The TRC has, however, not yet been formally approached to hear testimony by Mr Erasmus.

Angry workers at Gearmax had blamed nearly all politically motivated strikes at the plant on Mr Erasmus.

Numsa claimed support for the strike among its members in other industries and from an alliance of Uitenhage's community-based organisations.



Truth body calls on Harms, McNally for information on third force

(252)

Magistrate's Court tomorrow in connection with the 1981 death of human rights lawyer Griffiths Mxenge

This follows the arrest in Durban yesterday of former security police major Andy Taylor and the expected arrest today in George of his colleague, Brig Johannes van der Hoven, in connection with the same killing

The commission will re-examine findings presented to the Harms commission into the alleged existence of a third force, blamed for a string of political assassinations and violence in

the 1980s. Truth commission deputy chairman Alex Boraine said yesterday that Harms — an Appeal-Court judge — and McNally, who led evidence before the Harms commission, had been invited on Tuesday to hold private talks with the truth commission on information at their disposal about the third force. Boraine said the invitation followed the continued reference to certain people and units probed by the Harms commission which had suggested that "another look" be taken at its

proceedings which constantly re-emerged in truth commission investigations were that of the Civil Co-operation Bureau, Vlakplaas, assassinated Wits, academic David Webster, and murdered Windhoek advocate Anton Lubowski

Boraine said McNally had told truth commissioners that new insights and possibly new evidence had emerged since Harms made his finding in November 1990 that there was no evidence to corroborate claims that police

Linda Ensor and Kevin O'Grady

CAPE TOWN — The truth commission has called on Harms commission chairman Louis Harms and KwaZulu-Natal attorney-general Tim McNally to provide it with information on third-force activity in SA. Meanwhile, former Vlakplaas commander Dirk Coetzee and alleged former hit-squad member David Tshikalanga will present themselves to police and appear in the Pretoria

hit squads existed McNally said this new evidence might have an effect on Harms's findings

In his findings, Harms dismissed as fabrication the testimony of Coetzee about his role in Mxenge's death Coetzee has been charged along with four other former security policemen for the assassination of Mxenge in 1981

Boraine said the commission felt it would be "useful" to discuss these new developments with Harms and McNally

Continued on Page 2

Truth

(252)

Continued from Page 1

ly in view of the imminent arrest of Coetzee McNally would also be given the opportunity to answer criticism voiced at a hearing in Durban about the judiciary's role under apartheid

Others believed to have information of interest to the commission would be invited to share it with the commission and, if they refused, would be subpoenaed to do so, Boraine said. The commission decided this week to renew its invitation to Coetzee to appear at a hearing in Port Elizabeth in August

Boraine dismissed Coetzee's allegations that the amnesty committee had deliberately delayed processing his amnesty application, saying it had been tied up with applications from people in custody which it was legally obliged to deal with first. His application would be dealt with as soon as possible by three judges and his arrest would have no bearing on how they dealt with it Boraine noted that theoretically Coetzee or the amnesty committee could apply for a postponement of his trial pending the outcome of the amnesty application. The commission was initially concerned that Coetzee's bitter comments about the amnesty process, that it was pointless to apply as perpetrators would be charged in any case, would discourage them from coming forward. McNally confirmed

yesterday that Taylor appeared in the Durban Regional Court and was released on R1 000 bail. He would appear in court again on August 15, along with four suspects in the case who would be arrested by tomorrow, McNally said.

Coetzee, now a National Intelligence Agency agent, said yesterday he and Tshikalanga would present themselves at the Wachthuis, Pretoria, office of SAPS director Bushie Engelbrecht, head of the police team investigating the Mxenge murder, at 8am.

The fifth suspect, Almond Nomomela, who is in prison for murder, would make his first court appearance in Durban on August 15, Coetzee said.

He would report to Engelbrecht's office despite his belief that he should be called as a state witness in the case, having admitted his part in the killing in Vrye Weekblad newspaper seven years ago

After tomorrow's court appearance he would "fight Tim McNally (and) expose him for what he is", he said, referring to a 1989 finding by the McNally commission — a forerunner to the Harms commission — that there was no substance to Coetzee's admission of involvement in Mxenge's death.

McNally was now prosecuting him (Coetzee) "for what he (McNally) previously regarded as lies, as nonsense", Coetzee said. "The feeling I have is one of bitterness. I'm screaming out for even-handedness Show me one other perpetrator who stood up for the truth like I did."

Offer to justice officials will fall away if spurned'

Susan Russell

2018/7/96 (252)

THE package offered to alleviate salary grievances in the short term of disgruntled public prosecutors and state advocates who are working to rule would fall away completely if rejected, Justice Minister Dullah Omar warned yesterday.

"There is no offer beyond that," Omar said. He also said he did not believe the work-to-rule was justified in the circumstances and should be ended immediately.

Irate, overworked and underpaid prosecutors started working to rule nationwide in response to significant salary increases granted to magistrates by the justice department.

Omar does not have the power to increase salaries for state advocates and public prosecutors who are linked to the public service's central bargaining chamber, but has offered them a package to relieve their situation in the short term.

Omar's package proposal includes unfreezing 46 senior prosecutor posts, increased overtime remuneration and promoting personnel to higher salary notches.

He said the package was the best that could be achieved in the circumstances and if it was rejected by the parties it would not be replaced by another offer.

Omar has pointed out the legal position is that any change for improvement in the position of prosecutors and state advocates has to be referred to the central bargaining chamber.

Omar said the Prosecutors' Association of SA had first accepted the salary packages negotiated via the chamber but had now gone back on its own decision.

He called for the work-to-rule to end immediately, and for the parties to work together in a constructive manner to see what steps could be taken to improve the position of prosecutors and state advocates in the short term.

Meanwhile, Sapa reports that Western Cape attorney-general Frank Khan said the SAPS's sword and shield anti-crime drive could be jeopardised by the work-to-rule action.

Kahn, reacting to reports that 1 703 of the country's most wanted criminal suspects had been arrested in his province, said it was unwise to launch a crime prevention plan considering the problems in the justice department.

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Letter bomb to UDF leader 'in son's school report'

(252) BD 18/7/96

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PIETERSBURG — Northern Province UDF leader Peter Nchabeleng avoided opening a letter bomb in April 1986 only to die a few days later in police custody, the truth commission heard yesterday. Nchabeleng realised that an envelope containing his son Maurice's school results might be booby-trapped, and he refused to open it.

Maurice told the human rights violations committee his father had noticed the envelope contained "a wire". Maurice claimed

that the school principal, David Sego Oebeila, now a school inspector in Northern Province, had known that the envelope was a letter bomb.

Nchabeleng's widow Gertrude told the commission in a statement she and members of her family were convinced Oebeila had been a police informer.

Immediately after her husband's death, the principal left for Lebowakgomo, "which confirmed my suspicions", she said.

Maurice testified that his fa-

ther had told him to take the unopened letter to the principal, who had acted "very scared" when he saw it. The matter was not reported to the police.

Peter Mokaba's brother Ernest told the commission yesterday his family had been ostracised by the community and beaten, harassed and detained by the SA and Lebowa police, because of their link to the ANCP.

Peter Mokaba was not present at the hearings, and did not make a written submission. — Sapa.

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Right-wing killer's views 'are changed'

Stephané Bothma

PRETORIA — A "soldier" of the ultra right-wing National Socialist Partisans had murdered three people — including two women — as part of a struggle to avoid a bloody takeover of the country by the ANC, the truth commission's amnesty committee was told yesterday.

Cornelius Johannes van Wyk is serving a life sentence for the 1991 murders of Makwarela Dobani, her husband Wilson and Maria Claudine Roux, who were killed in an unsuccessful attempt to steal weapons from their home at Clouds End, Louis Trichardt. He said yesterday his political group had only four members.

Van Wyk and Jurgen White, military leader of the partisans, broke into the Roux home, seeking weapons to use in a burglary at a military base in Oudtshoorn. The Dobanis and Roux were shot and White cut their throats.

"I was not too worried at the time about the death of the two black people, but the death of Roux really upset me. However, we believed they were casualties of war," said Van Wyk, a straight A matric pupil who had been granted a bursary to study engineering at Pretoria University, in support of his amnesty application.

An amnesty committee member, Adv Chris de Jager, recused himself from the hearing yesterday because, he explained, he had represented Van

Wyk on an earlier occasion.

Partisans leader Jean Prieur du Plessis, serving 13 years for theft and the illegal possession of weapons, also applied for amnesty. His testimony will be heard today. The fourth member, Jurgen Grobbelaar, and White, both died at Noenieput, near Upington, in November 1991 while fleeing from the police. They are alleged to have committed suicide.

The group had also successfully burgled the Potchefstroom military base, where a "large amount" of weapons and explosives were stolen to be used in their struggle to protect the whites of SA from the "definite blood-bath" which would take place when the ANC took over the country, Van Wyk testified. "Although my beliefs of the time now seem naive, I truly believed then that our actions were necessary and justified."

So strong were their beliefs that the four members had sworn a blood oath that they would remain true to their cause and die for the Afrikaner nation if necessary. They accepted that people would die in their struggle.

Since his conviction in 1994, he had completed a BA degree at the maximum security section of the Pretoria prison, where he teaches Std 4 mathematics to black inmates.

His political beliefs had changed, he said, and although he still hoped for the creation of a volkstaat, this should not be obtained by violent means.

Land claims to be dropped

PIETERSBURG — Thirty-four land owners southeast of Pietersburg in Northern Province had successfully appealed against tribal land claims in the area, their attorneys confirmed yesterday.

Land claims by the Mmaboi community would be dropped when the case was heard in the Land Claims Court on July 22.

The farmers went ahead with their opposition to the claims, despite being advised against such action by the Transvaal Agricultural Union.

They brought a court action against the land claims commissioner, the land affairs minister and the Mmaboi community. After the respondents had conferred with their attorneys, they decided to drop the land claims. The farmers' legal costs will be paid by the State. BD 18/7/96

"This is a great victory for land owners," Piet Steytler of Pietersburg said after successfully guiding farmers through the legal procedures.

Steytler said land prices in the area would now stabilise. — Sapa.

The Star, Friday, 19 July 1996

Court tempers fray in battle of the prosecutors

(252) Star 19/7/96

Abuse rears its ugly head in Randburg court
as magistrate takes exception to remarks

By TROYE LUND

The public gallery in the Randburg Magistrates' Court recently witnessed a first-hand display of the bitter hostility between magistrates and prosecutors over the go-slow in courts.

"Gaan vlieg in jou m r," prosecutor Paul Botha allegedly said as he told magistrate Jaco van der Westhuizen and the advocate making the bail application that he did not need anyone's help.

The advocate and Van der Westhuizen had offered Botha help because he had picked up the case from the prosecutor he was filling in for that day.

The incident was verified by a woman who witnessed the proceedings from the public gallery. She agreed to recount the events and verify what court officials told The Star on condition she was not named.

The case was set down for 9am last Friday, after being postponed on two occasions before that. It was postponed again until that afternoon because Botha needed time to familiarise himself with the case.

"The proceedings were further delayed by Botha who asked long questions which the magistrate said were irrelevant.

"The magistrate warned Botha several times and, when he threatened him with contempt, Botha told him, in explicit terms, where to get off.

"The whole thing was chaotic and out of control," the woman told The Star.

At 4.15pm, the official court closing time, Botha refused to continue and work overtime. Van der Westhuizen again threatened to put him in contempt unless he continued. The matter was completed and the bail granted.

Van der Westhuizen, apart from confirming the spat, would not comment on the incident as he intended to take it further. His fellow magistrates at Randburg court said, although they sympathised with prosecutors' salary grievances, they would not accept their work-to-rule protests in court.

Magistrates said the judicial system already had a bad reputation and prosecutors should not be allowed to add to this by refusing to work overtime and by using "delaying tactics".

Botha refused to speak to The Star as did Randburg's chief prosecutor, Arno van Wyk. The head of the Prosecutors' Association, Blackie Swart, was not available for comment. He was meeting Justice Minister Dullah Omar to discuss the go-slow.

Killer border fences may come down under the new constitution

Electrified barriers may be illegal if they clash with clauses in the Bill of Rights which guarantee freedom of movement

By **NORMAN CHANDLER**
Defence Correspondent

The R35-million electrified fences separating South Africa from Zimbabwe and Mozambique appear destined for the scrapheap.

Military sources have told The Star the new constitution has brought into focus the legal use of the 17-year-old fences, erected at the height of the apartheid era to prevent illegal cross-border immigration and raids.

The relevant clauses are enshrined in the Bill of Rights, more particularly its references to democratic values of human dignity, equality and freedom.

Central are the clauses guaranteeing "freedom and security of the person" and "freedom and movement of residents" which provides for "every citizen to have the right to enter, to remain in, and to reside anywhere in the Republic".

The matter is under scrutiny in senior government and military circles, while the state's legal advisers are studying the implications of dismantling the fences. Involved in the talks are the De-

fence, Safety and Security, Justice, Home Affairs and South African Revenue Service (Customs and Excise) departments.

It is understood that objections to the dismantling have been lodged by military officers because they maintain that without such fences, it would require many more troops than the existing 12 companies on border protection duties to help the police curb smuggling and illegal crossings.

They also point out that in the first three months of this year, army patrols held 16 200 illegal immigrants from Mozambique and Zimbabwe.

Lieutenant-General Siphwe Nyanda, chief of staff of the South African National Defence Force, has confirmed that talks are being held about the fences.

In addition, at a recent briefing of senior media personnel, the SANDF said "The whole future of the border monitor system is being investigated interdepartmentally and will be decided on by the Cabinet".

The highly computerised structure - effectively used before 1990 to prevent anti-government

armed groups, illegal refugees, and arms and drug smugglers from entering the country - stretches from the Swaziland-South Africa border (Norex 1) to the Kruger National Park boundary, and from the Sand River in Northern Province to almost the Botswana border (Norex 2).

Both fences were set at "lethal" mode (12 000 volts) from 1979 in the case of the Mozambique border and 1986 in regard to Zimbabwe, but when then president F W de Klerk took office in 1990, one of his first acts was to order the fences to be switched to "detect" or "non-lethal" mode, which means the fence acts as a monitor.

Recently the SANDF indicated it would ask the Government to allow it to set the fence's electrical supply back to "lethal" mode in a bid to deter illegal immigrants.

This would mean any person or animal trying to cross the fence would be electrocuted.

■ The debate is taking place at the same time as South Africa and Kuwait are in negotiations for the erection of a similar South African-made electrified fence along the Kuwaiti-Iraqi border, sources have told The Star.

(252) (958) Star 19/7/96

A MATTER OF LIFE & DEATH

FM 19/7/96

More than a year after capital punishment was abolished, about 450 prisoners are still technically under sentence of death. It could take years for judges to review all the cases and resentence each prisoner if the current snail's pace of justice is anything to go by.

The Constitutional Court abolished the death sentence on June 6 last year, ruling that it violated the constitutional right to protection against "cruel, inhuman or degrading treatment or punishment".

But that did not cancel the death sentences handed down prior to the ruling. Those sentences will have to be commuted and the prisoners resentenced.

Meanwhile, the dragging uncertainty of the condemned prisoners' fate amounts to cruel and unusual punishment in itself, says Human Rights Committee chairman Jeremy Sarkin.

But Justice Minister Dullah Omar says the delay does not prejudice the prisoners because "there is no possibility whatever of any early release".

Cabinet has approved draft legislation to be submitted to parliament this year to provide for the resentencing. Omar says that the process has dragged on because a team of judges had to examine the issue and had decided that resentencing may be unconstitutional unless special provision was made by parliament.

PM 19/7/96

The Human Rights Commission is being accused of making up rules as it goes along, abusing its powers and acting unconstitutionally. Much of the HRC's problem is that there's as yet no law defining unfair discrimination in SA — creating a vacuum in which it's expected to investigate human rights violations.

Moreover, until the new Constitution is certified, the Bill of Rights does not apply horizontally (between individuals) but only between the State and individuals (vertically). The HRC has jumped the gun by intervening in disputes between individuals and private institutions while the issue is the subject of a Constitutional Court challenge. This raises serious concerns about whether the commission is upholding the rule of law.

A spate of recent incidents involving the HRC have made headlines. In each case stated here, commissioners have accused a party of a human rights violation, sometimes publicly, without having conducted a formal investigation in terms of the HRC Act, which gives parties the right to legal representation and an equal opportunity to state their case.

Commission chairman Barney Pitsoa Moseneke was roasted in the *Sunday Times* after he accused it of waging a vendetta against a Henry Isaacs and violating his right to dignity and to pursue a livelihood — a conclusion Pitsoa reached solely on the basis of Isaac's complaint to the HRC.

The paper accused Pitsoa of abusing

his powers, but he's confident that the correct procedures were followed. He says the incident falls within the 80% of complaints which can be resolved by "informal conciliation," and says investigations are a "subsequent procedure which can only be undertaken once all other avenues, like conciliation, have failed."

Inaugurated in October 1995, the HRC has not yet invoked any of its Draconian search and seizure powers and has mediated most of its cases.

Cape Town commissioner Rhoda Kadalie sees bad publicity as a "powerful weapon" it can use to put pressure on institutions accused of rights violations. She says she has made strategic use of the press because the institutions "were not open to debate."

In April, Kadalie claimed that SA Airways had violated Mary Cobbett's right to equality when it attempted to charge her baby the full business class fare. Cobbett transferred to economy class, where babies are charged 10% of the fare.

SAA responded that the policy was designed to discourage babies in business class for the comfort of passengers who had paid a higher fare and was in line with industry practice.

Kadalie then contacted all SAA board members, including Louise Tager and Mamphela Ramphele, in the hope that they would exert pressure on management. SAA is obtaining legal advice.

Sun Valley Primary School practices an allegedly "Draconian" disciplinary code and most of the parents who voted for it did so "because they don't know any better," Kadalie claims.

Acting on the opinions of a child legal expert, the Child & Family Welfare Society, the Bill of Rights and the International Convention on the Rights of the Child, Kadalie is prepared to hold a public hearing and use the HRC's powers to have the code overturned.

The code — which Kadalie deems "anti-child" — provides for the equivalent of black marks to accumulate against a pupil for each wrongdoing. Sanction begins with detention and ends in expulsion, depending on the number of offences within a certain time frame.

DP MP Dene Smuts feels that the HRC is not working, partly because the Act does not detail its functions. "Until the Act is rewritten, adjudication should be left to the courts."

The Institute of Race Relations hopes parliament will amend the Act. It is opposed to the HRC's power to force wit-

nesses to testify, hold proceedings in secret, financially assist complainants but not the accused, and that commissioners cannot be held liable for anything said in good faith — while it's an offence to defame the commission.

The HRC is aware that it's "a young body with awesome powers and would not deny that there are legal ambiguities regarding the vertical and horizontal application of the law. However, the evolution of just and accountable practice in the protection of human rights is the goal of the commission."

It denies that it "makes up the rules." The Act affords it the power to initiate investigations and promote mediation and conciliation. It follows the intentions of the Act, which it interprets with the advice of lawyers. "If this causes dissent, then the HRC feels its open response to criticism and willingness to pursue public debate vindicates it from charges of legal protectionism." ■

The strange case of Dirk Coetzee

(252) MTG 19-25/9/96



Something is morally rotten when one assassin is prosecuted and another gets off scot-free, argues **Eddie Koch**



WHEN a pair of assassins are able to squabble on the front page of a national newspaper over whose style of killing people was more moral, it is a clear sign that decay has set into the nation's moral and judicial culture. That is exactly what happened when police hitmen Joe Mamasela and Dirk Coetzee fell out with each other in public this week.

The spectacle began with the extraordinary decision of KwaZulu-Natal Attorney General Tim McNally to order the arrest of Dirk Coetzee, the police captain who first exposed the existence of death squads in apartheid's security forces, and two accomplices, for their role in the gruesome killing of Griffiths Mxenge in 1981.

Human rights lawyers and senior officials in some of the offices of the country's attorneys general are outraged by the move, not so much because they believe Coetzee should be indemnified for the murders he has confessed to carrying out in the apartheid era, but because they believe McNally's decision was capricious.

They point out that McNally ran a one-man commission in 1989 that ruled the renegade policeman's sensational hit-squad claims were unsubstantiated. McNally denies any bias, saying he acted against Coetzee simply because he had recently acquired enough reliable evidence to build a *prima facie* case.

Either way, Coetzee's fate contrasts dramatically with that of Joe Mamasela, a member of the anti-insurgency police unit based at Vlakplaas, who has admitted to being personally involved in the murder of more than 30 people. Mamasela has been promised indemnity by the KwaZulu-Natal and the Transvaal attorneys general for the murders, including that of Mxenge. In exchange for providing the investigation teams with more of the kind of information that Coetzee made public more than five years ago. On top of that, Mamasela is reported to be earning a salary of R10 000 a month as a special judicial investigator for the attorneys general.

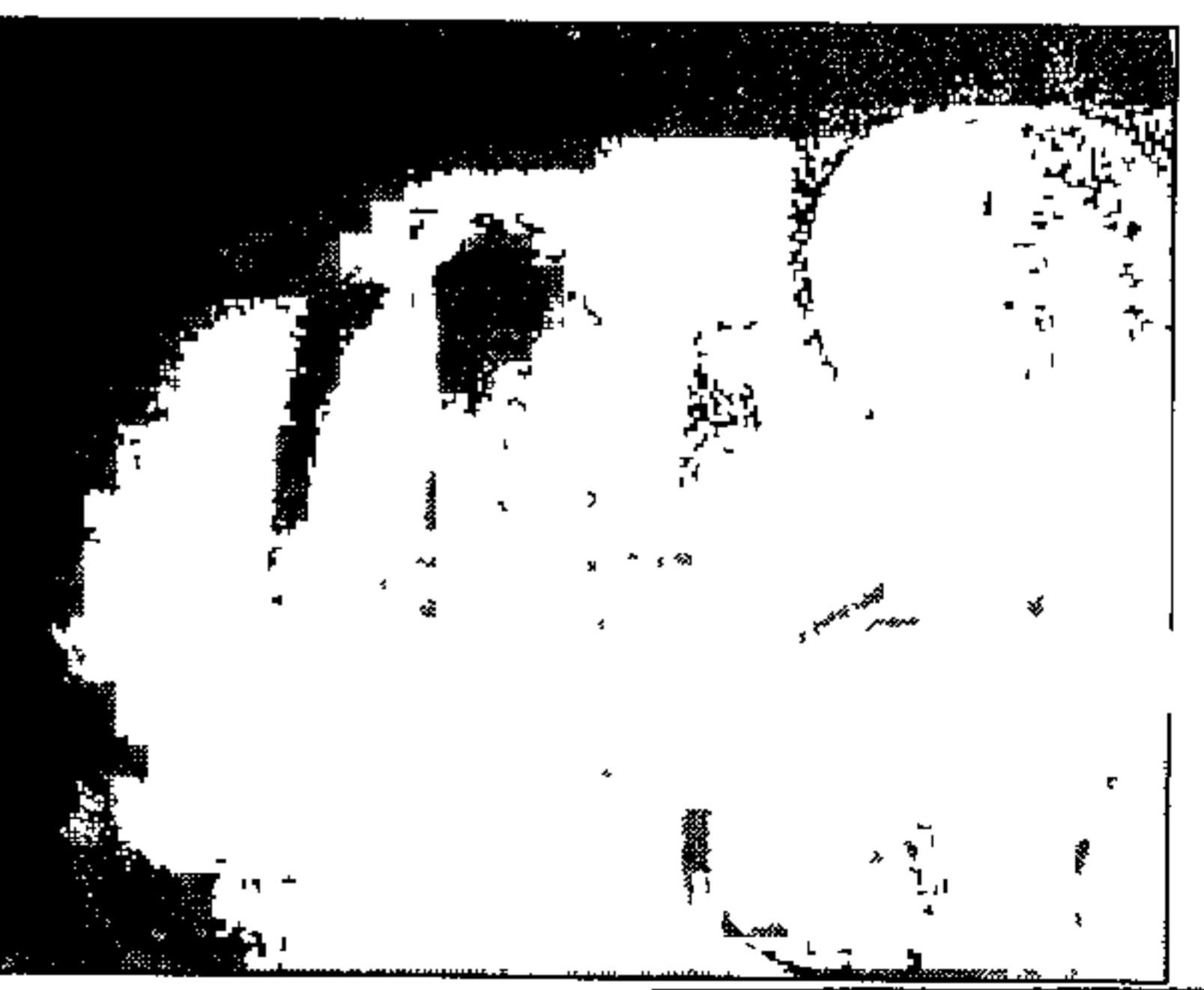
McNally says his opinion, supported by Judge Harris now in the Appellate Division, was that Coetzee was an "unreliable" witness when he first exposed the hit squads and this left him without enough *prima facie* evidence to prosecute the Mxenge case. It was only when Mamasela emerged with new evidence, that McNally felt he had a case with a



Dirk Coetzee: Will be prosecuted for his role in hit-squad murders



Man in the middle, KwaZulu-Natal Attorney General Tim McNally



Joe Mamasela: Reportedly earning R10 000 a month in the attorney general's office

reasonable chance of succeeding in court. McNally says reports from the Transvaal attorney general's office indicate that Mamasela is now providing "reliable" information about a range of political murders - even though the Vlakplaas operative is on record as saying that he personally helped cover up the existence of hit squads at the time of the official inquiries into Coetzee's revelations.

Whether the attorney general's decisions to reward one killer with amnesty and money while punishing another were biased or not, they highlight the extraordinary powers concentrated in the hands of single officials whose job it is to decide whether to prosecute or reward them with immunity from prosecution in exchange for information. One prosecutor acknowledged that sometimes "the roll of the dice" determines whether a killer gets jail or indemnity. He argues that the kind of prejudice which McNally is accused of showing could be prevented if such decisions were left to a judicial panel rather than a single attorney general.

Legal experts say it is common practice in most Western legal systems for prosecutors to do deals with accomplices who are willing to give evidence about a crime in court. This is the staple diet of many detective movies and courtroom dramas. Without this power, they say, there would never be prosecutions in a great number of criminal cases.

But in Europe and North America there are sets of ethical guidelines and regulations that severely limit the reward that prosecuting agencies can use to induce potential wit-

nesses to give evidence. Complete amnesty is extremely rare and perpetrators usually get only a reduced sentence in exchange for cooperating with the authorities. And, in some cases, public opinion acts as a powerful brake on the power of the attorneys general or their equivalents.

This was highlighted in a recent case in Canada in which a couple was prosecuted for abducting two young girls and subjecting them to gross torture and sexual abuse. Paul Bernardo was given a life sentence after being found guilty, while his lover, Carla Homolka, was given 12 years because she turned state witness. This caused a moral outrage in

Canada as citizens in every state mounted protests and sent petitions to demand that her sentence be increased.

Sometimes 'the roll of the dice' determines whether a killer gets jail or indemnity

The principle embedded in that country's culture is that heinous crime, especially the taking of human life, should never go completely unpunished. To grant full indemnity to killers is to encourage a sense of entitlement among the assassins who exist in every city of this country: the kind of ethical rot that takes place when one killer uses a national newspaper to argue that he was "better" than another.

In the absence of clear parameters being drawn around this complex issue by the offices of the attorneys general, it is likely that the Truth and Reconciliation Commission will end up taking responsibility for promoting a human rights culture that venerates the principle that murder can be mitigated but never condoned. One of the amnesty committee's main tasks is to give

meaning to the concept of "proportionality" — that political motivation for carrying out a human rights abuse can provide grounds for amnesty if the severity of the crime is commensurate with the political beliefs that motivated agents to execute it.

The problem is that, so far, the amnesty committee of the truth commission has received more than 2 000 applications from perpetrators and has only held two public hearings in this regard.

Much of the work of this committee — which has the vital role of setting precedents for amnesty — is being held up by red tape. The lack of legal aid is creating a bottleneck for the stream of violators who either want to lodge applications or make public appearances to confess their crimes and plead for amnesty.

Once these blockages are cleared, the truth commission will begin to interact extensively with the attorneys general over the question of whether criminal proceedings should be instituted against known human rights violators or whether cases against the accused should be suspended so that they can make amnesty applications.

For this to happen, the attorneys general, amnesty committee and judges in cases already under way must discuss and concur on the postponement. This meeting of legal minds is likely to produce more definite guidelines around the complex question of which killers should be punished and which should go scot-free.

In a violence-prone country like ours, where the system has so far allowed some assassins to develop a sense that they are entitled to reward instead of penance, the sooner this happens the better.

PROTEST ALMOST TWO WEEKS OLD

CT 19/7/96

More talks held to end prosecutors' go-slow

PROSECUTORS have adopted a wait-and-see attitude regarding proposals to increase their salaries. **DAN SIMON** reports.

MORE talks are being held between the Prosecutors' Association of South Africa (Pasa) and the Department of Justice in a bid to end the work-to-rule protest by prosecutors and state advocates.

Mr Faiek Davids, the Western Cape spokesman for Pasa, said yesterday "We are holding further talks with the minister's office and there might be a chance of breaking the impasse"

Prosecutors countrywide have been on a work-to-rule protest for almost two weeks in a bid for higher salaries and better working conditions. State advocates joined the go-slow late last week.

One senior prosecutor at the Cape Town Magistrate's Court said yesterday he was paid at least R16 000 less a year than a magistrate at the same level of seniority

Justice Minister Mr Dullah Omar said this week changes to prosecutors' and state advocates' salaries and working conditions could only be authorised by the Public Service Commission's central bargaining chamber

He added that the go-slow was not helping their cause

Public prosecutors started their action to force the department to put their salaries on a par with magistrates. They also do not want to be part of the civil service.

Omar said draft legislation, which would allow public prosecutors to be paid separately as profes-

A day in the life of ...

A PUBLIC prosecutor's job is an extremely high pressured one which usually requires 17-hour work days.

Speaking on condition of anonymity, a 35-year-old prosecutor has likened it to a treadmill.

He said a prosecutor's day started at 7am and usually ended well after 10pm to keep the wheels of justice turning.

"It's an extremely high pressured job. The courts are understaffed and where there is generally one prosecutor per court, it places tremendous demands on them to run the court all the day."

"They deal with witnesses, legal counsel, the police — and delays. They usually just manage to get through an overloaded court roll."

"Prosecutors come out in the afternoon and barely have enough time to collect their charge sheets and case dockets for the next day."

He said although he did not begrudge magistrates their salary increases, he pointed out that magistrates did not endure the same daily stresses as public prosecutors.

"Magistrates sit and hear the cases before them. But prosecutors have to prepare each case, even those which are postponed because an accused does not show up. You end up going through the mill. It's a treadmill. It creates a situation where you get out when you can."

He said prosecutors were committed, but it seemed there were more resources for defending people than prosecuting them.

"The work to rule is the only professional manner in which the prosecutors can draw attention to their plight. They are not disrupting court or toy toying. People say they are doing administrative work. This is not so. They are doing preparation work for their cases."

Staff Writer

sionals, was "already in the pipeline"

To ease the plight of prosecutors and state advocates in the short term, Omar said he had appealed to the Public Service Commission to increase the status of public prosecutors and state advocates by one notch.

"This would provide them with better increases which in many respects may bring their salaries in line with the increases received by magistrates."

Meanwhile, Sapa reports that

Pasa chairman Mr Blacky Swart said yesterday that his organisation had been "misled" by its negotiator at the Public Service Commission's central bargaining chamber negotiations earlier this year on salaries and working conditions.

Swart said further that proposals put forward by Omar for a relief package for state advocates and prosecutors had not been rejected.

However, the proposals were too vague and prosecutors would wait to "see what materialises", he said.

All can play a part in building a better society, says truth panelist

JOHN YELD
on the Truth Commission

EVERYONE in South Africa - even those not directly involved in past abuses - can help create a better society, and the Truth and Reconciliation Commission is but one among many ways of achieving this aim, says panelist Mary Burton.

Addressing an Institute of Citizenship meeting in St George's Cathedral hall yesterday, Mrs Burton - a former national president of the Black Sash - said one of the commission's tasks was to inspire people to "do their own little bit" to help achieve this new society. "There are so many small building blocks happening all over the country. Anything that helps people to achieve dignity is a step towards reconciliation," she said. Without such transformation, reconciliation and forgiveness would be "really just empty terms". Responding to a question, Mrs

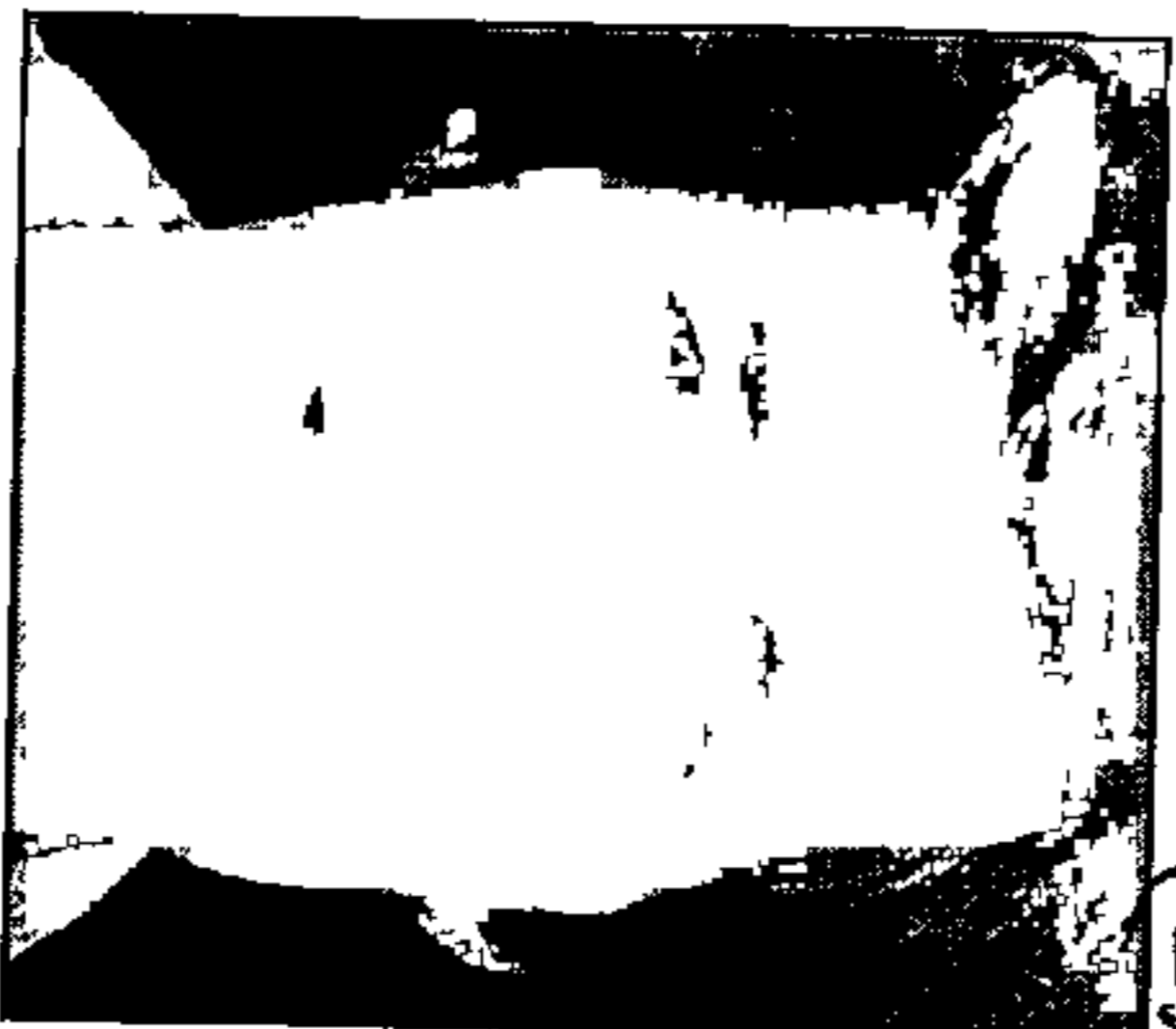
Burton said it appeared unlikely that people found guilty of human rights abuses or who confessed to having been perpetrators could be deprived of the right to hold public office, although this was a question much discussed by both the commissioners and internally.

Such a prohibition - formally termed "ostracism" - would be difficult to enforce. Also, the Truth Commission was not a court of law, Mrs Burton said.

"It means that people could be deprived of their livelihoods without due judicial process." In cases of named perpetrators seeking elected public office, it would be up to the electorate to decide.

"And I think there will very likely be public campaigns to that effect, but legislation is unlikely, although there is still a great deal of debate."

Asked whether the commission's work was hampered by the



MARY BURTON: A crusader for the truth.

lack of cross-examination of witnesses testifying during hearings and whether commissioners were satisfied they were being told the truth, Mrs Burton replied. "The process of findings comes later, hearings are simply to create a

space to enable people to tell their stories

"And we do have a very skilled investigative team and their task is to find corroborative evidence."

Only when the human rights violations committee was satisfied "on a balance of probabilities" that a person's story was true, was he or she declared a victim.

"I think the bigger problem is that of allegations against other people," Mrs Burton said.

These alleged perpetrators were informed of the claims against them and they had the right to rebut the allegations and give their version of events, but this remained a problem area. "I think we just have to be as careful as we can."

She conceded that the commission did not have sufficient resources to investigate all the claims made by victims or to help everyone in their attempts to dis-

cover what had happened to their loved ones

"This was particularly true of people whose relatives had gone missing in the camps of the liberation movements outside South Africa.

The commission might consider helping to organise a symbolic ceremony for these people as a way of allowing them to complete the mourning process, Mrs Burton said.

Asked whether the commission's work was significant internationally, she replied:

"I do think we have learnt an enormous amount from other (truth) commissions elsewhere, almost all of which were seriously flawed. But our own is also flawed."

"It is still a fragile process and very traumatic, especially in the rural areas where traumas are exposed, and I don't think we can be entirely sure of its success."

(252) ARK 1477/96

Elderly tell of pain, confusion over beatings, murder

(252)

ARL 19/7/96

PIETERSBURG - Human rights abuse victims - many of them elderly and illiterate - described forced removals, beatings and murder during the Truth and Reconciliation Commission's second day of hearings

Some said they did not know why they had been targeted or who their attackers were

They were unable to say yesterday whether the incidents were linked to political, or merely tribal, conflicts

Commissioner Russell Ally expressed the difficulty facing the commission when he told one victim it was necessary to establish the context in which human rights violations took place

It could probe only those which were politically motivated

Research by the commission showed that rural areas in Lebowa were the scenes of widespread protest and resistance in the late 1970s and 1980s

Campaigns against traditional leaders became more pronounced as they were perceived as state functionaries and agents of homeland governments

The struggles apparently revolved around tribal authorities being replaced by democratically-elected structures

Rosina Cholo, 74, described how her six-month-old grand-daughter was killed in 1980

Mrs Cholo said she was living at Kgomo village in GaMatlala when Chief Kgame ordered villagers to move to Simaneng and establish a settlement there

She said a group of men tried to remove her, her daughter-in-law and grand-daughter by force

"When they came, they came by

TRUTH COMMISSION



storm They told us to leave They chopped my grand-daughter but they didn't tell us why," Mrs Cholo said

Another GaMatlala villager, Maphuthi Thalathla, 55, described how in February 1979 she was beaten by a group of people who arrived in a car belonging to a local chief

She did not have the necessary settlement papers and was also told to move to another village

John Sasa described how his brother, Piet, was murdered by supporters of Matlala district Chief Benjamin Matlala

He described how African National Congress-supporting villagers wanted Chief Benjamin's brother's widow, Dikeledi, to rule them instead and how this had created conflict and disagreement in the area

The chief was supported by the apartheid government and its security forces, Mr Sasa said Both he and his brother supported the ANC, and he believed this was why his brother was killed

Another witness, Sydwell Rammutla, described how ANC supporters resisted draconian measures introduced by Chief Benjamin This included a regulation that villagers could keep only five goats, and no more than four cows and donkeys

Mr Rammutla said supporters of the chief arrived at his father's village in 1979 to confiscate livestock

His father was a prominent ANC member in the area, and he was attacked and beaten with sticks and knobkerries

His father, who had been confident and happy, became a broken man afterwards, Mr Rammutla said - Sapa

(252)

Coleman quits human rights body

DR Max Coleman has given notice of his intention to resign from the Human Rights Commission

In a letter addressed to the Secretary of Parliament, Robin Douglas, Dr Coleman gave three months' notice. If a replacement was found before that

time he would leave earlier, he said

ARLT 19/7/96
In Johannesburg, Dr Coleman said the commission would issue a statement in the next few days

He has been a member of the commission since its inception on October 1 last year - Sapa

Don't free neo-Nazi killer, pleads victim's daughter

ARLT 19/7/96 (252)

ROBERT BRAND
The Argus Correspondent

PRETORIA. - It would be unfair to release neo-Nazi murderer Johan van Wyk after only two years in jail, the daughter of one of his victims told the Truth and Reconciliation Commission's amnesty committee yesterday.

Margareta Roux said although she accepted that Van Wyk regretted what he had done and would resign herself to the committee's decision, she felt justice had to be done.

Van Wyk, 25, is applying for amnesty for the 1991 murders of Maria Roux, Makwalera Dubani and Wilson Dubani, as well as several convictions for theft and attempted theft of firearms from military bases. He is serving three consecutive life sentences.

He was a member of the ultra-rightwing National Socialist Partisans (NSP), a group of four which tried to steal firearms and ammunition to advance their cause of fighting for white supremacy in South Africa.

Maria Roux and the Dubanis were killed during a failed attempt by Van Wyk and another member of the NSP, Jurgens White, to steal rifles from the Roux family home in Louis Trichardt.

White had been a house friend of the Rouxs and had had a romantic relationship with Margareta Roux until shortly before the murders.

The NSP's former leader, Jean du Plessis, 25, is serving 12 years on the

firearms charges but was not present during the killing. He too is applying for amnesty.

White and the fourth member of the group, Jurgen Grobbelaar, were killed in a shootout with police, weeks after the Louis Trichardt murders, at Noemeput, in the Northern Cape.

Van Wyk and Du Plessis testified that they were indoctrinated by Du Plessis's father and the teachings of the neo-Nazi Church of the Creator to believe in a conspiracy by blacks and Jews to exterminate the white race.

Van Wyk said he had never intended killing Maria Roux, who had been hiding in a bedroom cupboard in her house after Van Wyk and White had shot the Dubanis outside.

Du Plessis said the killings at Louis Trichardt had never been part of the NSP's objectives and he was "shocked" when he heard about them.

Margareta Roux said she accepted Van Wyk and Du Plessis felt remorse about the murder of her mother.

"They want us to say fine, you are sorry, you can go free. But it is unfair of them to expect us to give them back their lives. What about all the lives that they destroyed? Who is going to give back our mother?"

Maria Roux's husband, Stephanus Roux, said it would be "very difficult" for him to condone amnesty for Van Wyk and Du Plessis. However, he would accept the committee's decision if the two were granted amnesty.

Negotiator misled us, say prosecutors

(252) 20 19/7/96

PRETORIA — Prosecutors' Association of SA chairman Blackie Swart yesterday said the association had been misled by their negotiator at the public service commission's central bargaining chamber negotiations earlier this year on pay and work conditions.

Prosecutors countrywide have been on a work-to-rule protest for almost two weeks in protest against their salaries and working conditions, and state advocates joined the go-slow late last week.

Justice Minister Dullah Omar this week said changes to prosecutors' and state advocates' salaries and working conditions could be authorised only by the commission's central bargaining chamber. The go-slow was not aiding their cause, Omar said.

Swart said they had elicited the minister's aid because he was their only Cabinet representative. "He has said he is committed to dealing with us and we appreciate that. Our fight is not with the minister."

Swart said his group had been misled by the Public Service Association, which was their negotiator at the central bargaining chamber.

He said it had not wanted to accept the commission's salary proposals, and had wanted to declare a dispute and go into arbitration.

"We were told that all prosecutors would be bound by our decision and there would be no salary increases until the arbitration came to an end. We did not want to make a decision which would affect non-members, so we accepted the proposals under protest and reserved the right to protest," he said.

PSA deputy GM Anton Lourens said it was given a mandate to sign the agreement, accepting the new salary grading system.

The PSA had made it clear, he said, that the other association was signing under protest because the association felt the new system would not alleviate the position of legally qualified staff in public service.

Omar's proposals for a relief package for state advocates and prosecutors had not been rejected out of hand, Swart said. He said the prosecutors' association was in the process of sending the proposals to prosecutors nationwide and would wait for their reply before determining a course of action. In the meantime, the work-to-rule would continue. The association was expecting to be able to announce a decision early next week, Swart said. — Sapa

es out
4 bid

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ter Steve Parks Minister of National Services, Mhela and Arts and Culture minister have accompanied four MECs Eastern Cape

a include Nocklamamy and c Committee

Arms stolen 'for SA whites'

Stephané Bothma

PRETORIA — The ultra right-wing National Socialist Partisans' leader, who stole a large amount of weapons and explosives from the defence force, had seen it as his duty to become militant to ensure the establishment of a safe haven for SA whites, the truth commission's amnesty committee heard yesterday.

Jean Prieur du Plessis, serving 12 years at the Pretoria maximum security prison, applied for amnesty, claiming that his crimes were committed to further the aim of his organisation which he had founded as a 20-year-old. The organisation enjoyed the financial and other support of the country's already established right-wing organisations.

At the time of his arrest, only a few months after his organ-

isation was founded and consisted of only four members, he had already made contact with overseas militant organisations in France and Italy.

"We believed South Africans did not realise what was happening around them and we considered it our duty to halt a communist takeover of the country," Du Plessis told the committee, under the chairmanship of Judge Hassen Mall.

He said the weapons theft from the Potchefstroom military base, which was "a piece of cake", had been done to obtain enough weapons to arm between 20 and 30 people.

They planned on starting a military base in Namibia from where to fight an ANC takeover of SA. Training camps were also envisaged in Mozambique and Zimbabwe.

Testifying about the death of three civilians at Louis

Trichardt at the hands of two of his organisation's members during the burglary of a private home to steal weapons in 1991, Du Plessis said that he had been shocked.

Although he had known that innocent people would eventually die in their struggle, the deaths of Makwarela Dobani, her husband Wilson and Maria Claudine Roux during the burglary could not be justified.

"It is a very unfortunate thing that happened

"It had jeopardised us in achieving our goals," Du Plessis told the committee. He said discussions with his father Armand du Plessis — an AWB supporter — had led him to believe the white man was a superior race and the only race that had a right to exist.

The committee will make a finding about his amnesty application at a later stage

Ex-police general accused

PIETERSBURG — Veteran PAC activist Eddie Simon Baloyi has alleged former security police head Gen Johann van der Berg and two others are perpetrators of human rights abuses.

Baloyi told the truth commission in Pietersburg yesterday he had been arrested in Johannesburg in March 1965 for furthering the aims of the PAC. He was interrogated by a Capt van der Berg and Gen van der Berg in Pretoria and was held at Newlock Prison.

After his trial, in which he was sentenced to three years' imprisonment, Baloyi said he was transferred to Baviaanspoort Prison and later to Barberton Prison. Van der Berg had ordered that he should be denied food and kept in solitary confinement.

"I was offered a full meal one day after every three days for five months."

At Baviaanspoort he had to work on the prison farm, despite being ill. He said a prison warden, whom he named as Langerveld and who carried a cane and an iron rod, had assaulted him.

Baloyi claimed the warden had been ordered to do this by a Col Bezuidenhout. He sustained injuries to his left eardrum which had left him deaf in one ear, and suffered permanent damage

to his left eye and right leg.

He claimed that after his assault the prison warders hid him in compost. He was rescued by a fellow inmate.

Rosino Cholo, 74, told the commission her six-month-old granddaughter Kante had been killed by attackers who tried to move villagers from their GaMatlala, Northern Province, settlement in 1980.

"When they came, they came by storm. They told us to leave. They chopped my granddaughter... but they didn't tell us why," Cholo stated.

Cholo said that people called "TCs" wanted the GaMatlala people to move from Kgomo village to Simaneng.

Asked what TC stood for, Cholo said she believed it was "The Congress", although she later said she was not sure. Another witness later said it stood for "traditional chiefs".

Cholo said she was at Diselthong village when Chief Kgawme of GaMatlala ordered villagers to move. Some obeyed, and had to pay R19 to move. Others resisted, leading to a feud.

Asked what the commission could do for her, Cholo said her house had been burnt, and that she would like it to build her a new home. — Sapa.

DURBAN — ANC Kwa-Zulu-Natal MP Blade Nzimande yesterday called for an urgent investigation into alleged justice department irregularities at Babanango in the north of the province.

Several people have been killed in the Babanango area in recent months in clashes between rival supporters of Chief Mhlabunzima Ntombela and Chief Joseph Jiyane.

Nzimande said many suspects linked to the violence were out on bail. "The good work that has been done by the police seems to be undermined by the ease with which the justice system grants bail to people suspected of very serious crimes of political violence," Nzimande said.

"I therefore call upon the Minister of Justice to urgently investigate the reasons and circumstances under which bail is granted to people suspected of committing



□ **IN COURT:** David Tshikalanga, left, advocate Rudolph Jansen and Dirk Coetzee shortly before their appearance in the Pretoria Magistrate's Court yesterday

Bid to 'suffocate the truth'

(252) ARG 20/9/96

Own Correspondent

PRETORIA - Former policeman Dirk Coetzee, who is to stand trial in Umlazi next month for the murder of human rights lawyer Griffiths Mxenge, believes he has been charged to derail the Truth Commission

Mr Coetzee, who made shocking revelations about police hit squads five years ago, applied for amnesty in April but has been charged with the murder before it was decided whether or not amnesty would be granted

KwaZulu-Natal Attorney-General Tim McNally, said he had decided to press charges against Mr Coetzee and his four co-accused because of new evidence in the Mxenge case

But Mr Coetzee and his

lawyer, Julian Knight, said they believed Mr McNally had ulterior motives

The decision to prosecute would stop people going to the Truth Commission, said Mr Knight

"It would seem that as soon as you make an application for amnesty, you get charged," he said

Mr Knight said the Harms Commission, in which Mr McNally had been involved, had obscured the truth and that in light of this there could be a hidden agenda in pressing charges

All of a sudden, five years after the revelations of Vlakplaas, charges were pressed against the people allegedly involved, Mr Knight said

"I think somebody is trying to suffocate the truth"

Bail of R1 000 was granted in the Pretoria Magistrate's Court yesterday to Mr Coetzee and David Spyker Tshikalanga, who both appeared briefly in court after handing themselves over to police to be arrested

Appearing with them was co-accused Butana Almond Nofomela, who was not granted bail because he is currently serving a life sentence for the murder of a Brits farmer, Johannes Hendrik Lourens

The hearing has been transferred to the Umlazi Regional Court, where all five accused in the Mxenge case will appear on August 15

The other two accused are former police major Andy Taylor and former brigadier Jan van der Hoven

Emergency law defended

By CARMEL RICKARD

EMERGENCY provisions in the proposed Constitution, including the possibility of forced labour, are in line with international law, according to the Constitutional Assembly's legal team

George Bizos SC, the team leader, said in a written reply to questions posed by Constitutional Court judges last week that emergency regulations were essential for times when the "organised life" of the nation was threatened and people's lives and property could not be protected through normal means

The International Commission of Jurists had pointed out that if a bill of rights did not provide for a state of emergency, authorities could take matters into their own hands. Without guidelines in the constitution, they could introduce indefinite detention, torture and even extra-judicial killings

Bizos said it was better if limits on state power were defined in advance rather than in the heat of the moment

During hearings to consider whether the Constitution should be certified as complying with the principles agreed during the Kempton Park negotiations, the judges expressed concern about emergency provisions which appeared to allow for forced labour, as well as permitting conditions which could make trials unfair.

Bizos said the state could depart from the rights in the Constitution if this was

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"strictly required" by the emergency and if the action was consistent with international law. In addition, the courts would be able to scrutinise the proposed emergency legislation to ensure that it was "strictly required".

He said the emergency provisions should not be interpreted as allowing unfair trials

However, it was "perfectly reasonable" that, during an emergency, citizens should lose their right not to be subjected to forced labour.

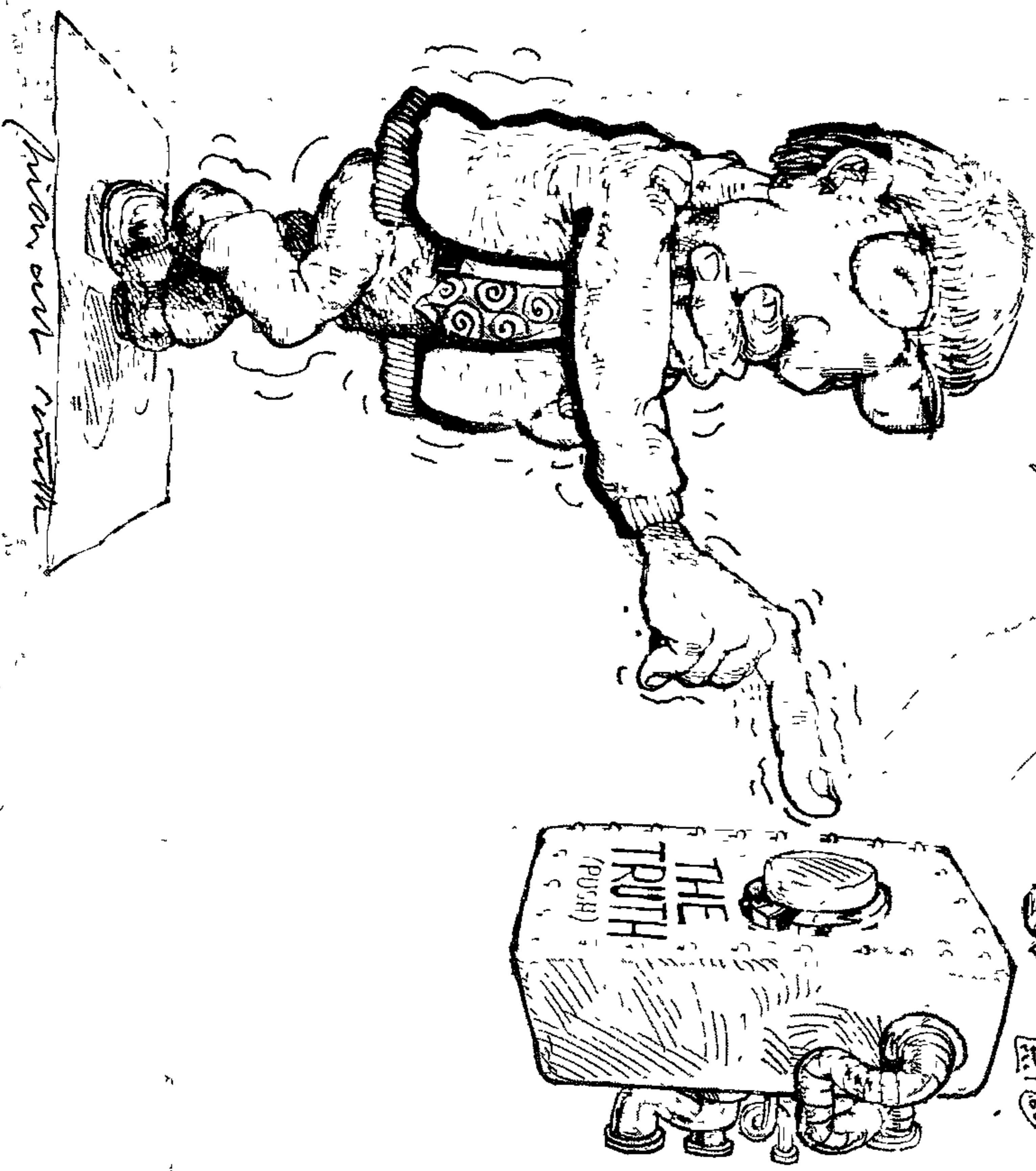
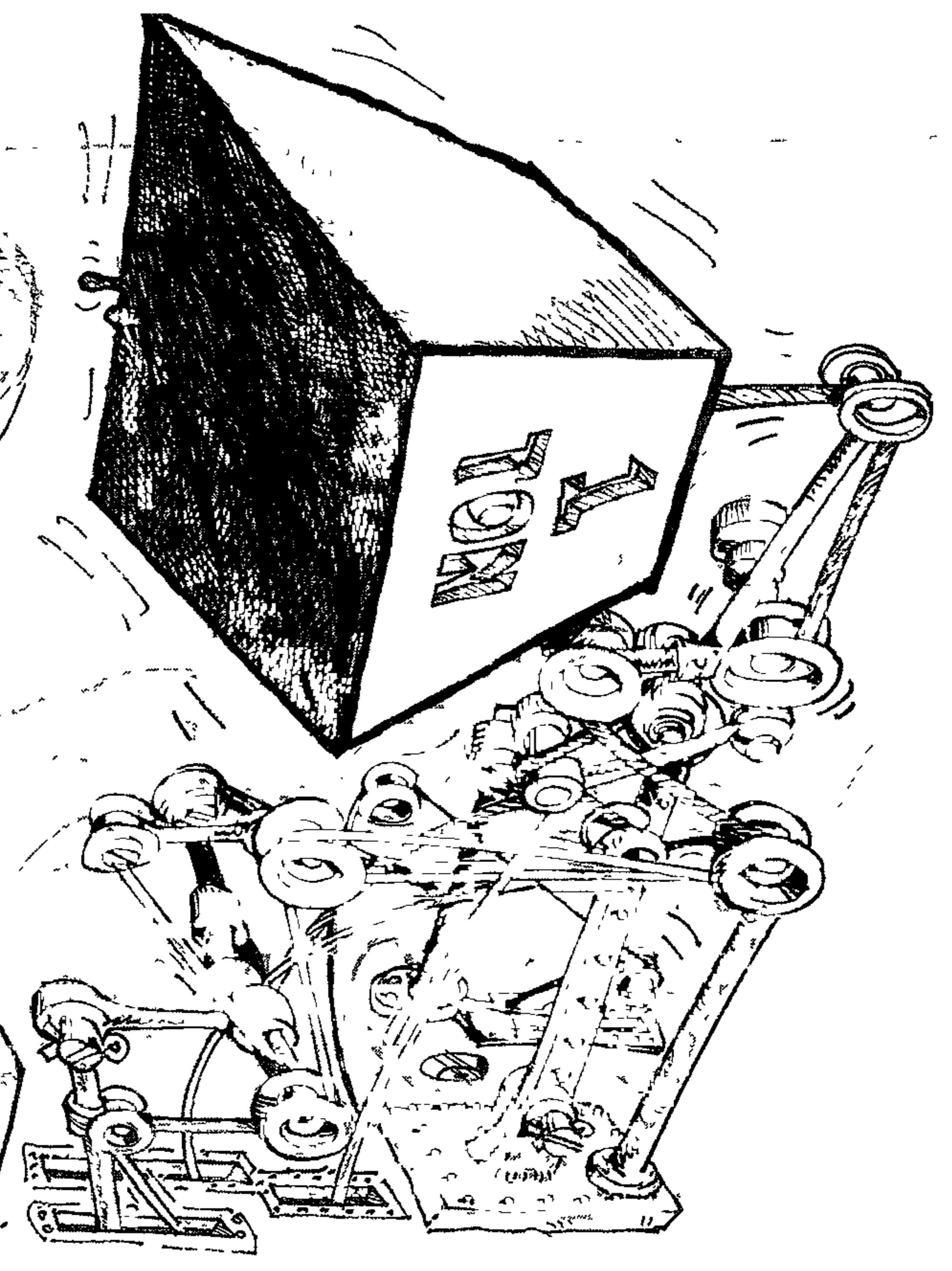
In several cases, the European Commission of Human Rights had held that calling up dentists and lawyers for community service amounted to forced labour, depending on a variety of factors, Bizos said.

Similarly, doctors and nurses might be required to help in hospitals at night, while soldiers might be called after hours to provide flood relief

"The searching for victims and the cleansing of debris after an earthquake, or the banking of a river in flood, may require people to provide labour as a matter of urgency," Bizos said. "All international human rights treaties recognise that compulsory labour may be required during a national calamity"

Bizos's argument is expected to be the last that will be received by the judges as they consider whether the draft constitution should be certified, or sent back for revision

ST 100 PUT 1 and -reconciliation Commission on and attorneys general seek to expose the secrets of South Africa's bloody past, thousands of former security force members grapple with the dilemma of truth and consequence. MARLENE BURGER explores their options



THROUGH four years of self-imposed exile, separated for the most part from his wife and sons and moving house 38 times to evade possible assassins, former Vlakplaas commander Dirk Coetzee never once doubted he had done the right thing.

Validated by colleagues, dubbed a liar by a judicial inquiry after his 1989 confession that he had led a state-sanctioned hit squad, Coetzee never wavered in his belief that, by speaking out, he could help put an end to atrocities perpetrated in the name of the total onslaught.

Seven years later, he is a deeply disillusioned man. The surprise decision by the Attorney General of Natal, Tim McNally, to prosecute him and four other former security policemen for the 1981 murder of anti-apartheid lawyer Griffiths Mxenge, has disabused Coetzee of any trust in justice. For the first time he is questioning the wisdom of publicly clearing his conscience.

His dilemma is shared by legions of foot soldiers who are bearing the brunt of the burden in the search for truth.

Seduced by promises of indemnity from prosecution, many have already turned state witness against former colleagues. The Transvaal Attorney General, Dr Jan D'Oliveira, whose Third-Force investigation team is at the forefront of the search for truth, has drawn about 30 accomplices into the prosecution fold during the 17-month trial of another former Vlakplaas commander, Colonel Eugene de Kock. The information they have supplied will probably be of inestimable value in future prosecutions.

IRONICALLY, those who have chosen to testify in court, in the process admitting their own roles in a range of serious crimes, may never have to seek amnesty from the Truth and Reconciliation Commission. Legally, it is up to the judge in any criminal case to decide whether a witness should be granted immunity in return for full and frank evidence. However, this is a mere technicality as few attorneys general would be inclined to press charges against a witness who has helped put a villain behind bars.

The De Kock case has seen accomplices — including self-confessed trigger-men — used on an unprecedented scale in order to secure a conviction, but it is not the only

In the hunt for truth, the silent are still king

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trial in which perpetrators will go free in exchange for their testimony.

McNally's case against the former Minister of Defence, General Magnus Malan, senior military officers and alleged Inkatha Freedom Party hit-squad members for the January 1985 Kwa-makhutha massacre also rests heavily on the testimony of those who planned it.

In Port Elizabeth last month, three former security policemen were found guilty of the car-bomb murders of three colleagues and a police informer in 1989. Their conviction was largely as a result of evidence given by De Kock who, 14 months into his trial, saw the prudence of telling the truth and is now co-operating fully with D'Oliveira's team.

But while a slew of perpetrators have turned state witness, the truth commission's amnesty committee has been less successful in eliciting the truth from those who orchestrated, executed and covered up the dirty tricks campaign to eliminate "enemies of the state".

The National Party, the police and the military are poised to make representations to the commission, setting out the political ambivalence of the time. But, if the police submission, filed this month, is anything to go by, these will constitute no more than politico-philosophical arguments for shoring up the apartheid regime.

They will not address the actions taken by entire units or by individuals to achieve the ends sought by those at the highest levels of government and, if anything, will serve to further distance the policy makers from those who carried out the orders.

The foot soldiers are faced with three options.

● By agreeing to take the witness stand against former colleagues, accomplices not only become patriots, but expose themselves — and their families — to the very real danger of assassination by those they may implicate. Like Coetzee, target of a parcel bomb which killed ANC lawyer Bheki Mlangeni, they soon realise that, while the truth may protect them from prosecution, it is no shield against persecution.

● Seeking amnesty from the truth commission is possibly even more hazardous, as full disclosure doesn't guarantee absolution. The law makes it clear that "gross" human rights violations — which almost certainly include murder — can not be summarily excused.

● The choice favoured by most alleged perpetrators is silence. After all, superior officers have successfully colluded with their minions in cover-ups so effective that even a judicial inquiry led by Judge Louis Harms was persuaded that hit squads were a myth.

The bulk of the 3 500 former dirty tricks operators who hastily sought indemnity on the eve of the April 1994 elections are adopting a wait-and-see attitude.

Those hoping that pioneer amnesty applications will give some indication of their own chances, may run out of time before taking the plunge. With only four months remaining for the submission of applications, the commission is legally bound to deal first with the cases of hundreds of convicted prisoners. Less than 10 have been heard so far. Coetzee was one of the first

to apply for amnesty. The supreme irony is that he has been arrested at this precise juncture for a murder to which he has confessed repeatedly for seven years. More ironic still is the fact that, while the truth of Mxenge's murder, as told by Coetzee and two of his co-accused, Almond Nofamela and Spyker Tshikalanga, was rejected by both the Harms commission, on which McNally served as senior counsel, and the earlier McNally commission, the case against them will be based on the testimony of Joe Mamasela, who now admits he lied to Harms. He also recently admitted to being involved in the murders of up to 35 people while in the security police.

UNDER the aegis of D'Oliveira's witness protection programme, Mamasela will escape prosecution, despite evidence that it was he who held Mxenge as his throat was slit and knives were plunged into his body more than 40 times.

It is this perceived injustice that has finally prompted Coetzee to abandon the one-man crusade he has waged for years. For the first time the man who, in a sense, paved the way for all subsequent revelations about hit-squad activities, is advocating silence.

In the search for truth, the consequences may sometimes be unexpected. In the quest for reconciliation, however, justice cannot be held to ransom. The question to be asked by all concerned should be how many of the guilty must go free in order that a selected few will pay the price?

More court workers join bid for justice on the job

(252) (1000) ST-21/7/96

By CARMEL RICKARD

GALVANISED by the work-to-rule protest initiated by public prosecutors, staff of the Supreme Court masters and registrars offices have decided to unite to push for improved salaries and working conditions.

This means that almost all legal professionals within the Department of Justice have organised to fight "intolerable" conditions of service.

The only remaining group of professionals, the legal administrative officers, have formed a committee to establish an organisation. The department's entire staff will then be organised into pressure groups.

The chairman of the new Masters and Registrars Association, Thinus Rudolph, said the organisation was formed on Wednesday. Within two days, 90 percent of those eligible to join had requested membership.

Rudolph wrote to the Minister of Justice, Dullah Omar, on Thursday to outline grievances of staff.

He told the minister his organisation intended to seek affiliation with the Public Prosecutors Association of SA, which is spearheading the protest by legal professionals attached to the courts.

He has asked Omar to respond within seven days, and to indicate whether he is prepared to deal with their grievances.

Meanwhile, Omar has arranged to meet the equally new Association of State Attorneys in Pretoria on August 6 to discuss their complaints.

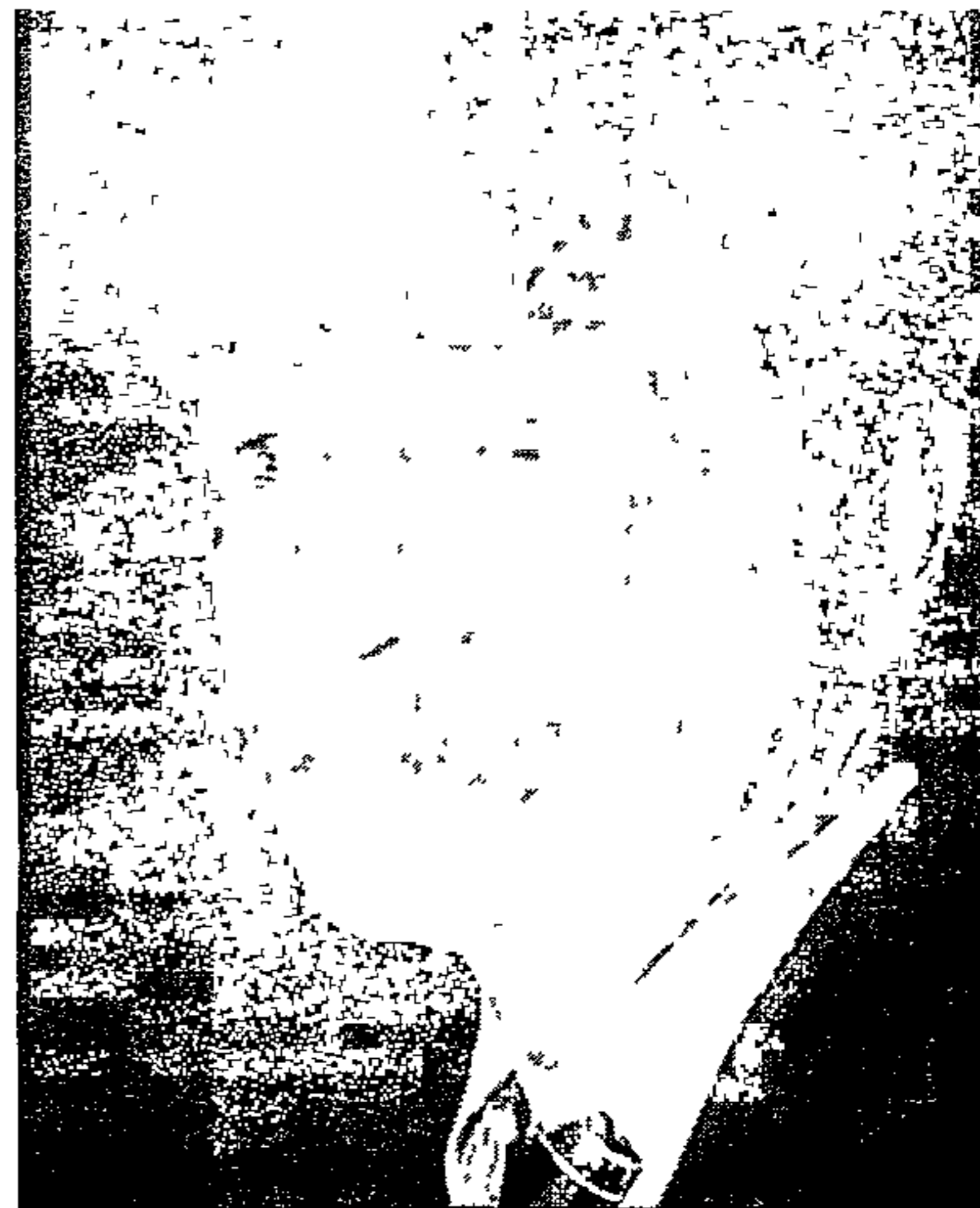
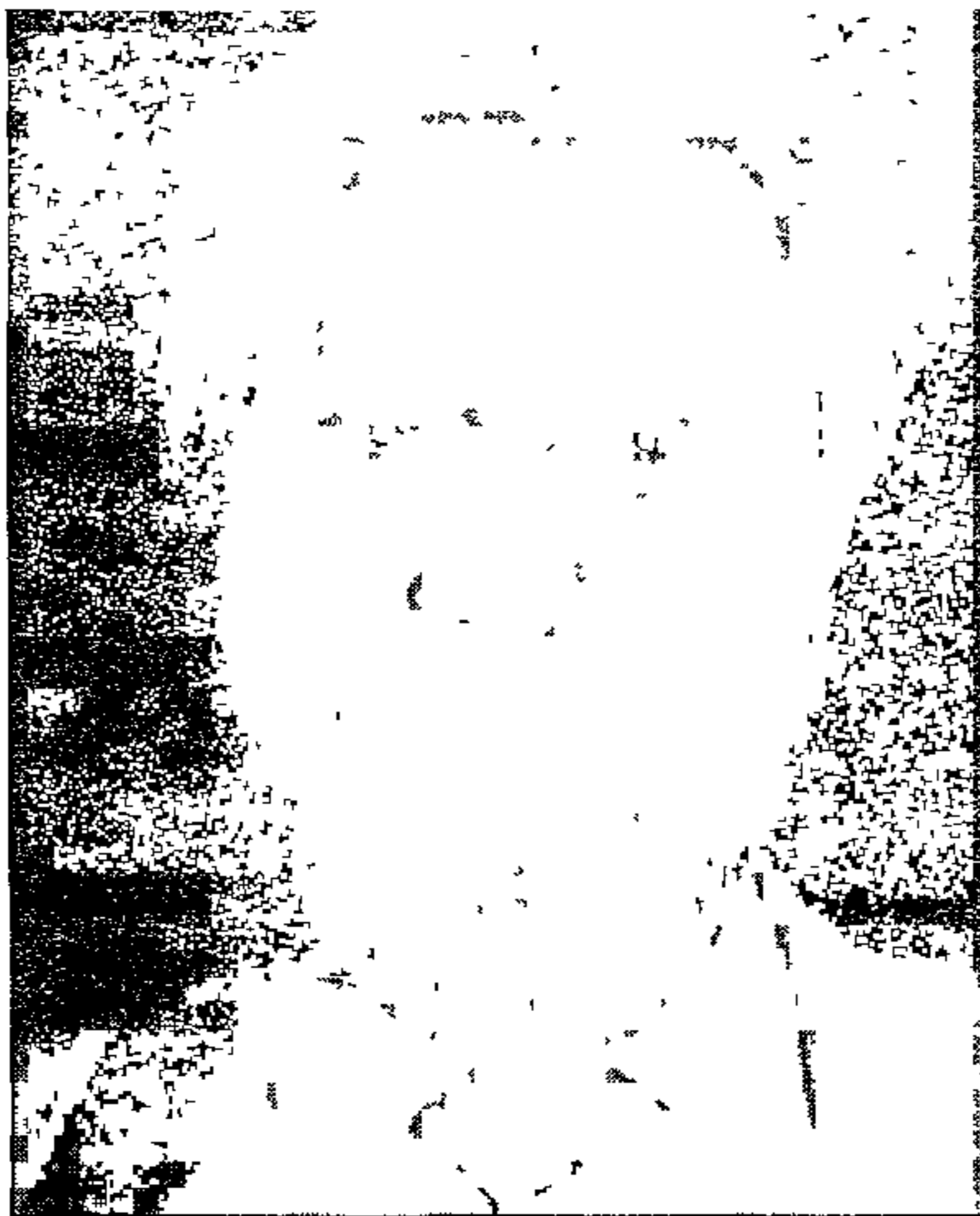
Each of these organisations, as well as the Society of State Advocates, have similar problems: inadequate salaries and insufficient staff to cope with the workload. The organisations want Omar to resolve their problems.

Several meetings were held this week to discuss the grievances.

Omar and his representatives have offered a number of proposals, but prosecutors say they contain no guarantees and are simply an offer by the minister to try to find the money needed to resolve the crisis.

Without guarantees prosecutors are unwilling to end their protest. The prosecutors' association will continue canvassing members this week, but the signs are that prosecutors want to continue to work to rule in the absence of concrete undertakings by the department.

This week the protest is expected to bite for the first time in the Supreme Court which was in recess when the protest started.



Hendrik Gerber (left) and Johan van Eyk ... seeking amnesty for murder

PICS LEN KUMALO

Has there been a change of heart?

(252) Sowetan 22/7/96

By Mzimasi Ngudle

THE SECOND PUBLIC HEARING of the Truth and Reconciliation Commission's amnesty committee, held in Pretoria last week, has raised a question that may never be answered: Have amnesty applicants undergone a real change of heart?

Or are they applying for amnesty simply to evade the law, thereby taking advantage of the amnesty laws agreed to by multiparty negotiators in the run-up to the 1994 election?

Former security policemen Hendrik Gerber and Johan van Eyk, who are serving 20 and 15 years for the 1991 murder of a colleague and suspected robbery accomplices of Samuel Kganakga, tried to convince the amnesty committee they acted without malice and with honourable intentions when they killed him on May 21 1991.

Unlike the witnesses who appear before the TRC's human rights violations committee, the two were led in their evidence by their lawyers before being questioned by amnesty committee members.

Forms of torture

In their testimony neither Gerber nor Van Eyk said why they left the police force to join the investigations unit of Fidelity Guards (FG) — a question that was not pursued by amnesty committee members judges Hassan Mall, Bernard Ngoepe and Andrew Wilson or advocates Sisi Khampepe and Chris de Jager.

Gerber said he was assigned administrative work when he joined the police force at the age of 16.

After his participation in radical forms of torture, Gerber said, his marriage crumbled and he and his wife were later divorced. However, he did not specifically link his role in torture with the breakdown of his marriage.

The two did not, therefore, argue that they left the police force because of human rights violations which they claimed were rampant in the force.

When they decided to subject Kganakga to severe torture, contrary to a directive from an FG managing director which prohibited all forms of physical torture and required that a union shop steward or member be present during interrogations, the two said they still worked closely with top security police-

Is it an effort to evade punishment by making use of amnesty laws?

‘I was a loyal National Party member and still considered it my duty to support the government after I left the police’

men at the time of the killing.

“As a member of the National Party and a former policeman, I felt that it was my duty to strengthen the hand of the government in fighting terrorists who infiltrated financial institutions with the objective of raising funds for liberation movements,” Gerber said.

“I regarded myself as a component of the police through our close links with the security police and our shared objectives,” Van Eyk said.

One irresistible inference from their testimony was that Gerber and Van Eyk did not distinguish their role in the FG investigation unit from their previous role as security policemen.

“I was a loyal National Party member and still considered it my duty to support the government long after my resignation from the police force,” Van Eyk said.

Questioned on how they linked the murder with a political objective, Gerber and Van Eyk related their indoctrination with the culture of human rights abuses prevalent in the police force which they joined as teenagers.

Spurred on by the then government's total onslaught propaganda and believing that they were cogs in a giant state machinery fighting terrorist insurgents, Gerber and Van Eyk saw Kganakga as one thorn they could never fail to pull out.

Gerber described the onslaught as the infiltration of financial institutions by members of liberation movements who wanted to steal and rob to raise funds for the movements.

Gerber said he fought in the interests of the economy when he decided to root out such infiltrators.

However, Gerber, who fired the shots which claimed Kganakga's life, was at

pains to explain the momentous decision to shoot Kganakga dead.

After broadly outlining that his information convinced him that Kganakga was a Pan Africanist Congress member who infiltrated the FG, he said he shot Kganakga for fear of reprisals from FG top management.

On the other, he said, he did not want to burden his associates in the security force with the onerous duty of concealing the unlawful shooting of Kganakga, who sustained a shoulder injury during an interrogation at a desolate spot at Cleveland's forest mine dumping site.

After further questioning, Gerber said his main objective was to strengthen the hand of the NP government in fighting terrorism.

Van Eyk, who set Kganakga's body on fire at a Benoni forest after the shooting, said he did not testify about his involvement in the crime during his trial for fear of embarrassing the NP before elections.

Total onslaught

Asked why they believed unbanned organisations like the PAC were still engaged in total onslaught, Van Eyk said “The onslaught still continued”.

Such was the mindset of the two amnesty applicants when they hung Kganakga upside down from a tree in Cleveland, drank alcohol and tortured Kganakga with electric shocks for seven hours. He suffocated from having a canvas bag pulled over his head and from the smoke of a fire made of gumtree leaves below his head.

After taking him off the tree and while still under the influence of alcohol, they shot him dead and resolved to burn the body to conceal the murder. Later they reported that he was missing.

Now, after serving only three years in jail, they asked the Kganakga family to forgive them.

“I ask his mother, if she is in the audience, to forgive me,” Gerber said. Kganakga's mother was not there.

Whatever made them change their minds did not come out clearly in their testimony. Which still leaves the question: Has there been a change of heart?

New chief magistrate

once walked the beat

Sowetan 25/7/93

By Mongadi Mafata

Bashe became a policeman to avoid being asked for hated *dompas*

NEW JOHANNESBURG chief magistrate Mr Mncedisi Charlton Bashe once became a policeman to avoid being

stopped in the streets for a *dompas*. "During those times, if you were a cop, you would not be asked for a pass," Bashe said before breaking into a hearty laugh.

Bashe is one of the three black chief magistrates in the country and started his new job at the beginning of the month.

"You could not be anything except a nurse or a teacher in those times, that's why I joined the public service in 1962 as a prison warder for four years," Bashe said.

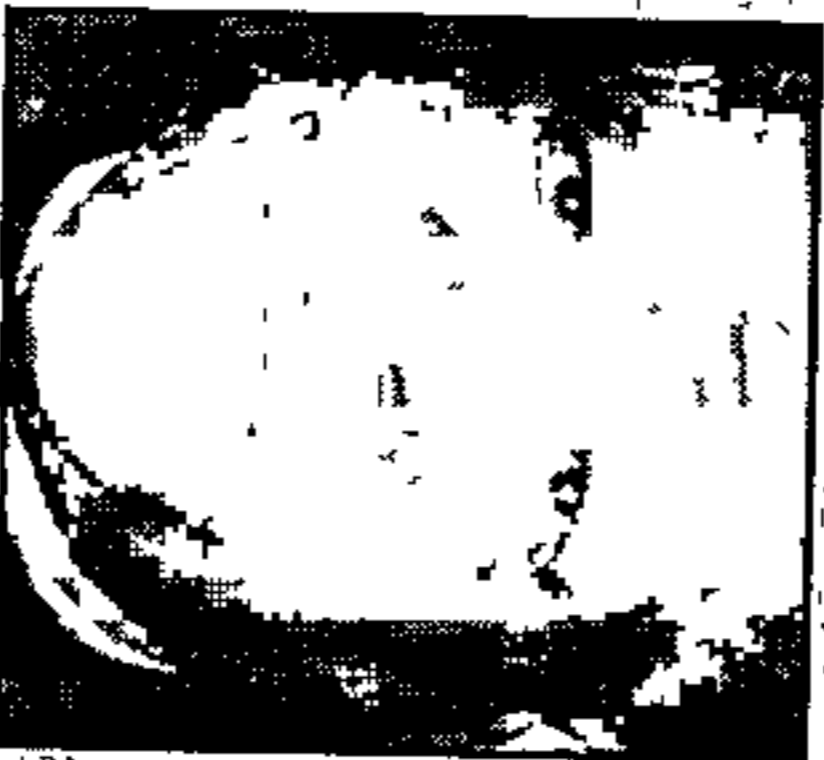
After being disgusted by the harsh treatment meted out to prisoners, he resigned and moved to Durban where, for five months, he plodded the streets looking for work. He survived by working as a labourer for a construction company

On July 1966

Bashe went back to then Transkei and joined the police force as a constable. He also started studying.

"I only had JC but in 1970 I passed my matric exams as a private student. It was around this time that policemen were trained as prosecutors and I was among the people who received the training," he said.

After four years of study and having been transferred to the Justice Department, Bashe passed his Diploma Juris in 1976. He had already been promoted to a magistrate two years before and was stationed at



Mncedisi Bashe, new chief magistrate of Johannesburg.

Maluti in 1982 as a senior magistrate

He said he first acted as a section head and was later transferred to Maluti in 1982 as a senior magistrate

Ten years later, in April 1993, he was appointed as a principal magistrate for Bizana.

He applied for a post of chief magistrate and he got the job. "I was astonished I didn't expect I would be successful because a number of candidates had also applied. But I felt the time had come for blacks to accept challenges."

"I started on July 1 and all the senior magistrates, administration heads and the chief interpreter came to pledge their support. There is co-operation and acceptance of my authority."

On the question of challenges facing him, Bashe says he is not intimidated by being in control.

"Because of their accepting me, I think we're going to work well as a team to enhance the independence of the judiciary."

He has to oversee all Johannesburg courts including 10 branch courts, covering Soweto, Lenasia and Klipfontein.

TRC hears how killing of Hector Petersen set Soweto on fire

The Argus Correspondent

JOHANNESBURG - The Truth and Reconciliation Commission today heard eyewitness testimony of how the death of Hector Petersen set Soweto on fire on June 16 1976.

The commission is sitting in Regina Mundi church in Soweto. The five-day hearing began with testimony from photographer Sam Nzima and Antoinette Sithole, the sister of Hector Petersen, the schoolboy who was the first casualty of the 1976 uprising.

Ms Sithole, who was 17 at the time, said she had been part of a march by high school pupils to

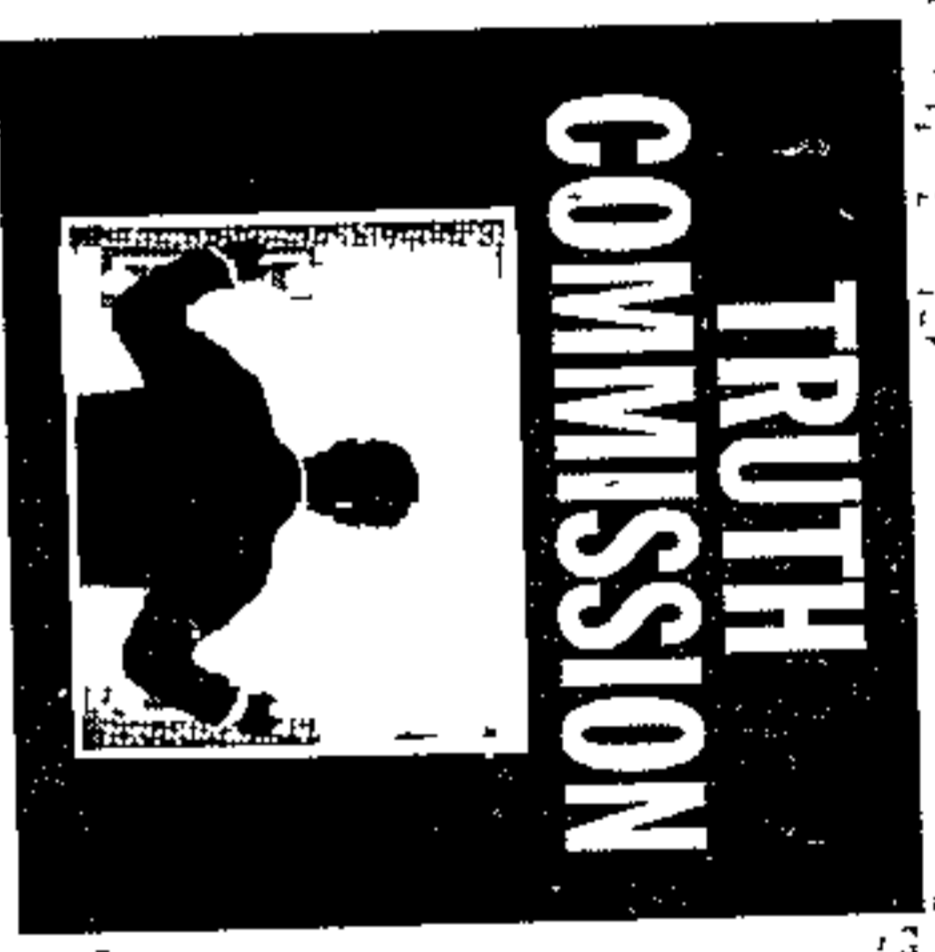
protest against the use of Afrikaners as the medium of instruction in black schools.

Hector, 12, and other primary school children had followed the march out of curiosity, she said.

Near the Orlando West High School, police had arrived and ordered the students to disperse. At the same time, she had seen Hector outside the high school.

"I called for Hector and said he should go back home. Then there was gunfire, teargas, confusion. I was afraid, I didn't know where Hector was. I saw someone carrying something. It was Hector."

Nzima, who took the famous pic-



ture of Petersen's body being carried away by a fellow student, said the boy's death had been the spark which ignited widespread rioting by pupils.

That afternoon Soweto was on fire. After the picture was taken there was never peace in Soweto."

Nzima said police had not attempted to disperse the students before shooting at them.

"Nothing was used except the loud ammunition. They were not shooting into the air, they were shooting directly at the students. I was there, I saw it. They shot to kill."

Meanwhile the Truth Commission's amnesty hearings in Mookeng township outside Kroonstad were delayed this morning. Hundreds of residents continued to queue outside the Mphahodi Col-

lege of Education, venue of the hearings, after the scheduled starting time of 10 am.

The college hall had already been filled to capacity and commission officials were setting up a speaker system to broadcast proceedings to people outside the hall.

The five-member amnesty committee is due to hear applications from men serving prison sentences for the murders of Three Million Gang leader George "Wheety" Ramasimong and his lieutenants.

The Three Million terrorised the township and allegedly worked in collusion with the police to "wipe out" opponents of the state.



Zuma wants more AIDS plays

DURBAN — Health Minister

Nkosazana Zuma said on Saturday she would encourage more AIDS education plays such as the controversial Sarafina 2, for rural people who did not have access to electronic media.

Speaking at the launch of an anti-hunger campaign at the University of Natal's Durban campus, Zuma said that whatever the reservations in some quarters, educational plays about AIDS were suited to rural audiences.

"I, for one, shall continue to encourage the use of educational plays such as Sarafina 2 to highlight the dangers of AIDS, particularly where there are no television sets and electricity."

She said a soon-to-be-screened film on AIDS education, Soul City, would reach a vast audience in rural areas.

Her department had decided to throw its full weight behind the anti-hunger campaign because poverty resulted in a host of diseases, AIDS being the deadliest.

The anti-hunger campaign is a joint proposal by the community-based organisation Iso Lentuthuko (development eye) and the University of Natal, with other partners. Its mission is the eradication of poverty and the promotion of sustainable development in KwaZulu-Natal. AIDS education is

part of the programme

Speaking at the function, Zulu King Goodwill Zwelithini said poverty in some communities had resulted in violence flourishing.

"Hunger is the breeding ground for violence and once violence becomes endemic within a community, development stagnates, thus consigning a whole group of people to backwardness," the king said.

He criticised people who enriched themselves on non-government body funds intended for the poor.

The king said poverty eradication was closest to his heart, particularly as recent surveys had found KwaZulu-Natal among the poorest provinces, together with the Eastern Cape and Northern Province.

"It really hurts me that some people go about with a begging bowl, asking for funds on behalf of the poorest of the poor in our society and, ultimately, after getting those funds they then line their own pockets."

He said the relative peace that had descended on KwaZulu-Natal created conditions ripe for "jump-starting" development projects.

Representatives of big business and members of the provincial legislature attended the launch. — Sapa.

Education 'can end witchcraft killings'

PIETERSBURG — The department of safety and security in Northern Province has called for an immediate educational programme to curb witchcraft-related killings in the region.

Department spokesman Serobi Maja said ignorance and illiteracy in rural areas in the province were the reasons for belief in witchcraft. More than 110 people are believed to have been killed in the province this year after they were accused of being witches.

"It will be a long-term solution because many people still firmly believe in the supernatural and witches," Maja

said. "It remains a matter of grave concern," he added.

Maja was responding to the murder on July 14 of Frans Makhudu, 96, of Modisane, near Tzaneen, who was hacked to death — allegedly by members of his family — after being accused of witchcraft.

Two of Makhudu's grandchildren were arrested and have appeared in the Polobedu Magistrate's court on murder charges. Thomas Manyama, 24, and Clement Makhudu, 26, were released on R5 000 bail and will appear again on September 13. — Sapa.

Umzumbwe poll on track

DURBAN — All 23 local government election polling stations in the Umzumbwe district on the KwaZulu-Natal south coast had opened on time on Saturday, manager of the election Jan Bezuidenhout said.

He said voting was slow but smooth at most of the stations and there had been no reports of voter intimidation or administrative errors at any of the stations. The elections had to be postponed on June 26 because five polling stations did not receive voters' rolls.

In terms of a subsequent court order, the elections had to be rescheduled throughout the whole district, affecting more than 23 000 voters.

Bezuidenhout said all of the voters' rolls had been in place on Saturday and election officials were anticipating a free and fair poll.

The Umzumbwe district is one of 18 in KwaZulu-Natal's seventh regional council area.

The Inkatha Freedom Party won the most support in 17 of the 18 districts counted last month, polling 64.5% of the vote compared to its nearest rival, the ANC, which polled 28.3%.

Results of the poll were due to be announced late yesterday. — Sapa.

More court officials

Join prosecutors' action

Susan Russell

OFFICIALS in the offices of the Master of the Supreme Court and court registrars have joined forces with state advocates and prosecutors, adding their voice on Friday to the demand for higher salaries and better working conditions for public service legal personnel.

Angry state advocates and prosecutors began their work-to-rule in response to the substantial pay increases which were granted to magistrates by the justice department.

Justice Minister Dullah Omar has said he did not have the power to grant increases for prosecutors and advocates linked to the public service's Central Bargaining Chamber, but has offered short-term relief in the form of promotions to existing higher salary scales and the unfreezing of more than 40 senior prosecutors' posts.

Pretoria Supreme Court Master M Rudolph said on Friday that a Masters' and Registrars' Association of SA was established last week to address their grievances, and it had already requested affiliation with the Association of Public Prosecutors.

A letter setting out members' grievances had also been sent to Justice Minister Dullah Omar.

Rudolph, who is also chairman of the organisation, said that the new association had 212 members and represented 90% of all masters and registrars nationwide.

In the letter to Omar, Rudolph said members were "perplexed and disturbed" that they had been overlooked when magistrates received their increases. He said personnel in the masters and registrars section were just as

worthy and the minister should be aware of the valuable and extremely necessary functions they carried out.

Another grievance was the backlog in filling vacant posts, which had long left deputy and assistant masters and estate controllers overworked.

Also, members were unhappy with the lack of remuneration for personnel who were performing duties and tasks normally done by more senior officials.

There was also no compensation for working overtime, which was done on a daily basis due to the urgency and importance of matters dealt with by the Master's office, he said.

Rudolph had informed Omar of the association's intention to affiliate itself with the State Advocates Association, as well as the Public Prosecutors Association of SA.

Sapa reports that senator Bulelani Ngcuka of Parliament's justice standing committee said important progress had been made on Friday toward the resolution of grievances leading to a work-to-rule decision by prosecutors.

He said that a meeting had been held between senior representatives of Western Cape prosecutors and Western Cape ANC members of the senate and national assembly.

Ngcuka said the prosecutors had been told that both justice committees (standing and portfolio) were aware of problems in the justice system, including poor pay and working conditions.

The prosecutors had been told legislation necessary to resolve the problems was being prepared urgently by Justice Minister Dullah Omar. Both committees would do everything possible to ensure that Parliament passed the legislation this year. — Sapa

Coetzee hears about his Outrage over

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Coetzee hears about his suspension on the radio

Stephane Bothma

PRETORIA — Hours after appearing in court for the 1981 murder of Durban human rights lawyer Griffiths Mxenge on Friday, former Vlakplaas commander Dirk Coetzee heard on the radio he had been suspended from his job as a national intelligence agent.

"Nobody informed me personally, but I accept I am suspended," Coetzee said on Saturday.

Coetzee, who has for the past seven years repeatedly confessed he ordered three askaris to kill Mxenge, appeared with two of his co-accused in the Pretoria Regional Court after handing himself over to Dir Bushie Engelbrecht earlier in the morning.

Unlike other policemen involved in criminal cases who deny guilt, Coetzee's legal bills will not be footed by the state.

Treasury regulations make no provision for policemen admitting guilt on criminal charges.

"I don't know who will

be paying my legal fees, but I have received certain indications that the ANC is currently investigating possibilities of assisting in some way," Coetzee said.

After first exposing police hit squads in 1989, Coetzee had received financial assistance from the ANC while in hiding in London and Lusaka.

He was also employed by the ANC's intelligence department after his return to SA in the early 1990s before accepting employment at national intelligence.

Coetzee appeared in court with Spyker Tshikalanga and Almond Nofomela. No charges were put to them and they were not asked to plead before Coetzee and Tshikalanga were released on bail of R1 000 each. Nofomela, serving a 25-year sentence for murder, returned to Pretoria prison.

Coetzee's case was postponed to August 15 when all the accused will appear in the Durban Regional Court.

Outrage over baby deaths

Nomavenda Mathiano

BD 22/7/96 (252)
BD 22/7/96
THE DP and NP yesterday expressed outrage over the deaths of two babies at Baragwanath Hospital when emergency generators failed during a power cut earlier this month, but commended Gauteng health department for announcing an inquiry.

A Gauteng health ministry spokesman said MEC Amos Masondo had instituted an urgent investigation and would also be meeting the public works department, which was responsible for maintaining the hospital's generators.

Gauteng DP health spokesman Jack Bloom said that an investigation into the incident had to be done so that those responsible could be punished.

Gauteng NP MP Daryl Swanepoel questioned the maintenance record of the generators at the hospital.

A number of nurses said the hospital had suffered other power failures and that generators had to be used.



Have corporations greater rights than individuals?

Little man is seen as being at the mercy of the big battalions, writes Helen Grange

(252) SHW 23/7/96

Social conscience in big corporations has been anathema till quite recently in South Africa, and for the most part, policy shifts toward liberal corporate policies have been implemented under political duress.

Mega industrialists fiercely defend their position of supremacy over employees on the basis that profit will plummet if the "tail starts wagging the dog", and have, for better or worse, mostly managed to retain this balance of power.

Enter the Bill of Rights, with all its attendant guarantees of equality, security, freedom of expression, privacy, association, property and access to information. On the face of it, it is the Trojan horse employees need to stave off discrimination or exploitation by the corporation. But on a closer look at our new constitution, the cor-

poration is well protected from indiscriminate use of these rights against it - both in that individual rights can be "reasonably" limited and in that the corporation is protected by the very same rights.

In the event of a conflict between the two, whose rights reign? The issue was raised this month in the Constitutional Court, which is busy scrutinising our new constitution, by a lobby group which believes the constitution is too vague about the balance of power between the individual and what is termed the "juristic person" (the corporation) - thus leaving a gap for employers to potentially exploit.

Backed by the internationally renowned consumer advocate Ralph Nader, the Challenge Corporate Power

Committee contended that mega-corporations will be able to use their constitutional rights to trump those of the individual - and that there is extensive evidence of this in the United States.

The offending constitutional provision reads: "Juristic persons are entitled to the rights in the Bill of Rights to the extent required by the nature of the rights and of the juristic persons." Simply read, corporations have the same rights as individuals.

The lobbyists posit these examples of "violations" which could arise a company's claim to privacy could override an employee's right to access to information in, say, an internal disciplinary hearing. The property rights of a mall landlord could be more powerful than freedom of expression rights of someone handing out pamphlets. "If we want to donate our time and energies to supporting a political candidate of

our choice, we could find that our voice is shouted down by the enormous financial resources that huge corporations can use in elections through their rights to freedom of expression."

The objectors also contended that the constitution is framed in such a way as to render the rights of "juristic persons" immune from limitation.

The argument before the CC was somewhat emotionally pitched, referring to historical inequalities of wealth and power and the fact that "small numbers of extremely powerful juristic persons are able to exercise wide-ranging powers over individuals". Says Mr Justice John Didoth "You're talking about billionaire corporations, but South Africa is replete with small businesses. How must the power of the individual

be measured and how can a mechanism (to put the thumb on individual rights) be applied across the board of business? The legal conundrum aside, the objectors had obviously done their homework, making for some interesting submissions. Figures which were culled by the now defunct RDP office show that the wealthiest 2.4 million of South Africans account for over 40% of all consumption, while the poorest 21 million account for under 10%. The share of wealth and income is also extremely biased by race, gender and geographical location. "African" people account for 94.7% of the poor, "Coloureds" account for 5%, "Indians" for 0.1% and "whites" for 0.2%. The objectors predict that as the state prepares to shrink its role in the economy, the concentrated wealth and power of South African corporations will grow.

IFP MP 'had threatened TRC member', hearing told

(252) ARG 23/7/96
The Argus Correspondent

DURBAN - An Inkatha Freedom Party MP had threatened a member of the Truth and Reconciliation Commission, it emerged at the TRC's first hearing in Maritzburg today

Giving testimony, academic and violence monitor John Aitchison gave an overview of political conflict in the Midlands

He recalled how in 1985 Valaphi Ndlovu MP led a march of 100 vigilantes in Maritzburg's Mbal township and urged them to "get rid of" the Federal Theological Seminary

Professor Aitchison said Mr Ndlovu had suggested the seminary harboured criminals and fomented unrest

He allegedly led a march to the seminary and told the president of

the institution, Dr Khoza Mgojo (now a commissioner with the TRC) that if it was not empty in five days it would "be burnt to the ground" Throughout this testimony Dr Mgojo remained impassive

Earlier, Commissioner Dumisa Ntsebeza referred to an IFP statement welcoming the Maritzburg sitting of the TRC, but cautioning against evidence which could disrupt peace initiatives

Mr Ntsebeza gave his assurance that all witnesses would have freedom to testify, but this would be handled in a responsible way and commissioners would try to be as even-handed as possible

The IFP initially rejected the TRC but later relented and allowed its supporters to make representations to the commission

Bantu education is blamed for the 'utter poverty' of SA

Reports by Stephen Lauffer

BANTU education — described as the cause of "utter poverty" in contemporary SA — was the focal point of several submissions to the truth commission yesterday.

The commission's hearings in Johannesburg's Regina Mundi church, the venue of many acts of defiance against apartheid, were the first "event hearings", focusing on a specific period. Veteran activist Ellen Khuzwayo, who joined other prominent adults in attempts to defuse the explosive situation in Soweto following the bloody police response to the June 16 1976 demonstration, said teacher Fanyana Mazubuko told the commission of the massive damage the system had wrought on the young people of Soweto.

The 1976 protests against Afrikaans as the sole teaching medium had to be seen in the context of wider discontent with the whole system, they said.

and Gauteng premier Tokyo Sexwale heard ANC MP Khuzwayo say the SA government had turned the children of Soweto into animals. She had become afraid to rely on young people for the support and protection she had enjoyed just a few years ago.

Mission schools such as Lovedale and Amanzimtoti, which had closed rather than apply Bantu education had been capable of producing doctors and lawyers like Ntshato Motlana. But "our children missed the opportunities — it is not surprising SA is in utter poverty today."

She hoped the NP would one day apologise for Bantu education. Khuzwayo said, "It is responsible for the young people becoming violent, because nobody listened to the young saying it was a curse."

Mazubuko, a teacher at Morris Isaacson High, which became a centre of defiance against the police, described discussions with student leaders including Tshepo Mashumi in the days prior to June 16 in which it became clear that protests against Afrikaans were being prepared. "He told us what he thought we

(252) 770 2917/1996

needed to know, and asked our advice, so we were not surprised when the placards emerged at assembly on June 16 and the students marched out of the school grounds singing." Mazubuko described efforts by several teachers to support the students through the ensuing months, including a threatened mass resignation by teachers. But although 503 letters of resignation were handed in, many teachers were pressurised to withdraw them.

Morris Isaacson came under increasing pressure from the police, and it was finally decided to advise Mashumi to leave the country.

Mashumi's mother, Virginia, told the commission that she had managed to stay in contact with him until 1979, losing contact after he had moved to Nigeria.

When the exiles started returning, she had been notified of his death, reportedly of natural causes. But his body had returned from Guinea, where he had lived with the support of singer Miriam Makeba, severely mutilated. She asked the commission to find out what had happened to him.

TRUTH COMMISSION



Photographers Sam Nzima, top left, and Peter Magubane, top right, with Antoinette Sithole (nee Petersen) at yesterday's hearings. Sithole's brother Hector was the first fatality of the 1976 student uprising. She appears in Nzima's photograph, bottom left, next to her dead brother.

Pictures: ROBERT BOTHA

Star 24/9/96
Judicial Service

Commission to hold interviews for new judges.

BY NORMAN CHANDLER

Pretoria Bureau.

(252)
The Judicial Service Commission is to hold interviews next week for the nomination of new judges to various appellate and supreme court divisions and to the labour court.

The commission said yesterday it would be interviewing potential judges in Cape Town for the appellate division, the Transvaal Provincial, Natal Provincial, Cape of Good Hope Provincial, Transkei, and Ciskei divisions of the Supreme Court, the Land Claims Court, the Labour Appeal Court, and the Labour Court.

Judges F d J Brand, C Plewman, P E Streicher, and R H Zulman, have been nominated for the two appointments to be made to the Appeal Court while four nominees have been short-listed for three vacancies in the Transvaal Provincial division of the Supreme Court. They are, Acting Judge G A Borchers, Advocate P Boruchowitz SC, Advocate E Patel and Ms K M Satchwell.

Other nominees are
Natal Provincial division - Acting Judge V Niles-Duner, Advocate P M Meskin SC, and D Pistorius, Cape of Good Hope - Y Ebrahim and Acting Judge S Ngcobo, Transkei - Advocate M Madlanga, all divisions except the Appellate division - Professor A E B Dhodhlo, Land Claims Court - S Meer, Professor N J J Olivier, S Pather, Labour Appeal Court - Judges E Cameron, P Combrink, J H Conradie, F Kroon and C Nicholson.

Labour Court - Professor D Basson, G Giles, B Jammy, Professor A Landman, Professor P A K le Roux, advocates E Revelas, T A Sishi, J G van der Riet and M A E Bulbulia.

Journalist tried to save Hector's life

(252) Sowetan 24/7/96
TRC hears more testimony on a march that turned into a nightmare

By Abdul Milazi

A FORMER JOURNALIST told the Truth and Reconciliation Commission hearing in Soweto yesterday about her futile attempts to save the life of Hector Petersen – the first person to die during the 1976 Soweto uprising.

Ms Sophie Tema, who was then a reporter with the now defunct *Weekend World*, said she had been alerted to the June 16 pupils' march a few hours before.

For the rest of the Soweto residents, the march remained a secret until it took place.

She said she was with the marchers when police opened fire on the pupils.

"When a young boy was shot in the leg, I told my driver Mr Stanley Mtshali that we should take him to the Orlando Clinic.

"On our way there, I saw this young

woman with agony painted all over her face. Beside her was a boy in overalls carrying a bleeding child. I told Stan to stop and take them too," Tema said.

She later learnt that the boy in overalls was Mbuyiselo Makhubu and the bleeding child was Hector Petersen, who did not make it – he had been shot through the neck.

Another witness, Ms Christina Buthelezi (36), crippled by a police bullet during the June 16 disturbances, came in a borrowed wheelchair to tell her story to the TRC.

Buthelezi, of Senaoane, was shot in the spine on her way home from the march by a policeman.

She said since the shooting, which left her hospitalised for three years, she had never received a wheelchair or

financial aid to help her cope with life.

Buthelezi has a six-year-old daughter, Ayanda, who has just started school. She told the commission she found it difficult to make ends meet on her monthly R410 disability grant.

"All I want is for the government to take care of my medical expenses and pay for my daughter's schooling," she said. She said the therapy she has to undergo is too expensive for her to afford.

"I want a wheelchair of my own," said Buthelezi, a wish that touched all present at the TRC hearings at Regina Mundi Church in Rockville.

Every time she has to go somewhere she borrows a wheelchair from a local self-help organisation for the disabled, she said.

New deal on way for prosecutors, advocates

(252) ARG 24/7/96

PRETORIA - The Minister of Justice, Dullah Omar, said today that measures to improve the capacity of courts to deal with crime had been agreed at a meeting between him, attorneys-general and justice department officials.

In a statement, he said these steps included "strengthening the prosecutorial authority, providing administrative assistance, filling all posts and providing training".

The police's Sword and Shield campaign to arrest wanted suspects was discussed.

"Legislation necessary to de-link prosecutors from the public service and to create a single prosecutorial authority in terms of section 179 of the Constitution was discussed," Mr Omar added.

It was agreed new overtime arrangements be introduced immediately to substantially improve the position of prosecutors and state advocates.

The disappearance of police dockets, and "corruption generally", had been discussed.

"Steps have been and are being taken to tighten up control at courts to ensure that corruption is reduced." - Sapa

Role of judiciary under attack

Court officers accused of failing to act on torture

252 ARG 24/7/96
 MARITZBURG. - Members of the judiciary, the Inkatha Freedom Party and the police were named as alleged perpetrators of human rights abuses when the Truth and Reconciliation Commission held its first sitting here.

Several victims, some highly emotional and tearful, yesterday described incidents in which they were tortured, their families harassed and loved ones killed, often by people known to them.

One of the most emotional instances of brutality was given by former uMkhonto weSizwe cadre Anthony Ndoda Xaba, 63.

He told the commission he had been among the first group of cadres to leave for military training in Tanzania in 1962.

He had been arrested and brought back to Pretoria, where he was tortured during interrogation before serving a 10-year sentence.

After his release in 1975, his family had been woken at 2am one day by police.

They searched the house and took Mr Xaba to the Maritzburg's Loop Street police station - the headquarters of the security branch.

A Colonel Dreyer had removed Mr Xaba's spectacles and a number

of policemen had assaulted him. "They didn't ask me anything and I lost consciousness. I eventually came around about three or four hours later and Dreyer took me by my feet and hung me outside a window upside down."

He said his head and body had been banged against the wall, which broke his arm. Mr Xaba said he had been handcuffed and suspended from the cuffs "like a piece of meat in a butcher's".

Mr Xaba accused the presiding judge in his case, Mr Justice Alan Howard, of accepting police evidence.

"He was adamant the torture did not happen, saying it was an MK trick and we had been trained to deceive the court," Mr Xaba said.

His arm injury had forced him to take early retirement, and the limb was still paralysed.

Criticism of the judiciary also came from John Atchison, director of the Centre for Adult Education.

He said it had been known during the 1960s and 1970s that torture was used by the police special branch to extract confessions, but

TRUTH COMMISSION



the judiciary had failed to act.

"One of the most shameful aspects of this period was the unwillingness of prosecutors, magistrates and judges to resolutely refuse to co-operate in legal processes corrupted by torture of suspects," he said.

In his overview of the past 30 years, Mr Atchison singled out several people whose actions he believes should be investigated, including the former Maritzburg security police chief, Colonel Dreyer.

Mr Atchison alleged Colonel Dreyer had encouraged the abuse of police power. Colonel Dreyer had gone on to

"greater notoriety" in Port Elizabeth and in Namibia as the head of Koevoet, he added.

Several witnesses yesterday claimed to have been harassed and intimidated by Inkatha member Jerome Mncwabe, who has since been killed.

Sywasia Ngcobo of Imbali told the commission that Mr Mncwabe, accompanied by an IFP mob, had come to her house in 1987 and demanded permission to beat their sons, Bheki and Mzo.

Her husband, Benjamin Bhekizazi Ngcobo, had feared for his life and agreed to the beating.

Later that year on August 9, her husband had been wounded when he answered the door. He had died in hospital in September 1987.

"I don't want anyone to be arrested, that won't help. But I want to know what happened to my sons - one of them is dead but the other is still alive," Mrs Ngcobo said.

Inkatha member Sean Awetha was implicated in the murder of Ndlelemi Anthony Dlungwane, who was shot dead on May 23, 1990. Mr Dlungwane's wife, Thoko, said

she had heard on May 17 that year that her family had been implicated in the death of Mr Mncwabe.

Later that month her husband had been wounded in his waist and feet outside their home. He had died in hospital and she had later been attacked at her home.

She asked the commission to bring the perpetrators to court. Zodwa Nthombela of Imbali told how she lost several relatives.

Her brother Muzi was a member of a youth group and a United Democratic Front activist. He boycotted school and was shot dead by an unknown person in 1994.

In 1990, the family had woken up to gunshots. Her father, Ginga Nthombela, had died of his wounds. Later her mother had also been killed.

"I knew it was our neighbour who killed my father and I told him to finish me off too. Later, it was said I had harassed an Inkatha member and should be dealt with."

Mrs Nthombela said she was unaware that an inquest found Big Boy Madlala and Zakelele Bangu responsible for killing her father. She did not know if they were charged for the murder. She asked the commission to find out - Sapa

No legal assistance for former hitman

M+G 19/25/96 (252)
Eddie Koch

DIRK COETZEE, the police hitman who first exposed the existence of death squads in the police, will not receive legal assistance from the government when he is arrested on Friday this week for the 1981 murder of human rights lawyer Griffiths Mxenge.

The decision not to pay Coetzee's legal costs, even though he has cooperated fully with the African National Congress and the government to expose third force operations in the apartheid era, is in stark contrast to the treatment of other other dirty tricks operatives currently on murder charges.

Police are paying the full costs for Colonel Eugene de Kock, former commander of one of the most active death squads in the country, now facing more than 100 murder and fraud charges. The expenses of 19 murder suspects in the Magnus Malan trial are being paid by the South African National Defence Force. The combined costs of these two cases so far amounts to about R10-million.

Coetzee told the *Mail & Guardian* he and another former hitman, Spyker Tshikalanga, would hand themselves to police on Friday. Both men expect to be freed on R1 000 bail.

The decision not to pay the legal fees and expenses incurred by Coetzee and other policemen involved in the forthcoming Mxenge murder trial was made in terms of a state regulation that officials who admit to criminal activities do not qualify for legal aid.

"We have been informed by the state attorney that we will have to pay all of our own costs including travel to and from Durban and lodging," said Coetzee. "This shows that it is better for all those people who carried out human rights atrocities to deny this instead of coming clean. Despite all this talk of truth and reconciliation, the system rewards those who lie."

The truth commission is known to be worried about the impact of Coetzee's recent comments on perpetrators who are considering whether or not to apply for amnesty, in return for full confessions about their involvement in

human rights abuse during the apartheid era

The police captain has stated publicly that he feels like a "used condom" and that it is not worth it for "all those Dirk Coetzee's out there" to reveal their past.

Coetzee also says he has been "abandoned" by the African National Congress. The renegade policeman says the organisation promised support in exchange for his early and valuable information about hit-squad operations in the police during the 1980s.

The policeman first revealed details about the notorious Vlakplaas unit to reporters from the *Vrye Weekblad* in 1989. "An intermediary, Andre Zaaiman, went to Lusaka to the ANC looking for a deal for Dirk. He came back to *Vrye Weekblad* and told us the ANC would look after Dirk in return for a full confession," says former *Weekblad* reporter Jacques Paauw.

They never gave him an undertaking that he wouldn't be charged, because they couldn't. But they did agree to look after him. The ANC did do this until he got back from exile in London. And they also got him a job in the National Intelligence Agency."

However, Coetzee is also bitter because the ANC allegedly failed to include him on the list of people who were indemnified against criminal prosecution before they came back into the country from exile.

Jacob Zuma, deputy head of ANC intelligence and Coetzee's handler in exile, was not available at the time of going to press to answer queries

about whether his organisation would assist its members now being charged for crimes they helped expose.

Coetzee has applied for amnesty from the truth commission, but this had not been processed by the time an order for his arrest had been issued by the KwaZulu-Natal Attorney General Tim McNally.

His trial could be postponed to allow his amnesty application to be heard only if the judge, AG and amnesty committee of the truth commission agree to do this.

Relief over Constitutional Court ruling

(252) ARG 25/7/96
Truth Act is sound, say judges

FEARS that it would be back to the drawing-board for the Truth and Reconciliation Commission have been dismissed after a landmark ruling today by the Constitutional Court.

The court ruled that the commission's founding Act - the Promotion of National Unity and Reconciliation Act, passed by parliament on July 26 last year - was constitutional, and it dismissed a challenge by the Azanian People's Organisation (Azapo) and the families of four murdered anti-apartheid activists Steve Biko, Fabian Ribeiro and his wife Florence, and Griffiths Mxenge.

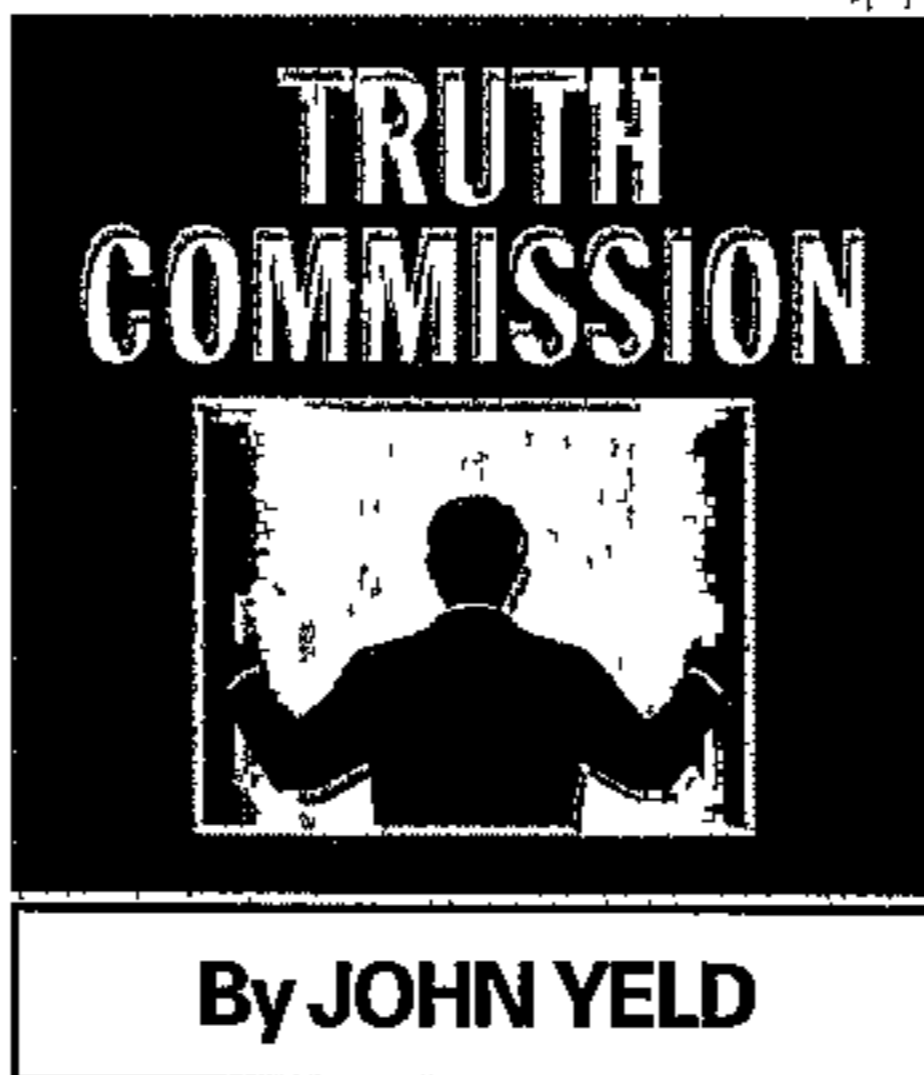
Mr Biko died on September 12, 1977, after being assaulted in police custody. African National Congress activists Dr Ribeiro and Mrs Ribeiro were shot dead at their Mamelodi home outside Pretoria on December 1, 1986.

The Harms Commission linked their deaths to the SA Defence Force's shadowy Civil Co-operation Bureau (CCB).

Mr Mxenge, a lawyer, was assassinated in 1981, allegedly by a police death squad from the notorious counter-insurgency unit based at Vlakplaas, and his body dumped in a stadium at Umlazi near Durban.

A former police captain and head of Vlakplaas, Dirk Coetzee, and four other former police were recently arrested in connection with Mr Mxenge's death and are expected to face murder charges when they appear in court next month.

They are each free on R1 000 bail.



Mr Coetzee has applied for amnesty from the Truth Commission, but his case has not yet been heard and none of the details of his application have been made public.

In April, attorney Cyril Morolo, acting for Azapo and the families of the activists, filed an application with the Constitutional Court challenging the constitutionality of

the Truth Commission's founding Act. In terms of the Act, perpetrators of human rights abuses between March 1 1960 and December 5 1993 who apply for amnesty on the prescribed application form, printed in the Government Gazette, must be granted full amnesty for their crimes by the Truth Commission's amnesty committee, if they fulfil the conditions stipulated in the Act relating to the political nature of their offences.

Once granted amnesty, they will be immune from any civil claims and criminal charges.

The families of the dead activists argued that they had a constitutional right of redress against those responsible for the alleged murders.

The amnesty committee has heard a number of applications, but has not made any findings, pending the decision of the Constitutional Court.

There was concern in commission circles that if the court found in favour of the applicants, it could require substantial re-writing of the relevant Act and the probable suspension of some or all of the Truth Commission's activities.

Double blow for Omar as regional court magistrates also complain about earnings

(252) Krow 25/12/96

As Justice Minister Dullah Omar met prosecutors and state advocates in Pretoria to defuse a looming crisis in the country's courts, regional court magistrates fired a shot across his bows by expressing discontent at their earnings.

The Association of Regional Magistrates of South Africa said Omar's declared intention to narrow the pay gap between judges and magistrates had not materialised in the case of regional court magistrates.

A regional magistrate now earns less than 50% of a judge's salary but is nevertheless required to preside over extremely serious criminal matters including the majority of murder cases which used to be within the exclusive jurisdiction of the Supreme Court, association chairman T D Reed said from Durban.

Regional magistrates complained the problem for Omar, however, by noting that they had received the smallest increases in the entire judiciary. Handsome raises were awarded to those below them (district court magistrates) and those above them (regional court presidents), they said.

Late last night talks between the justice ministry, state advocates and prosecutors were still continuing to discuss issues of pay and the possible delinking of these categories from the public service.

Talks would continue today if no finality was reached - Pretoria Correspondent

Pay discontent from regional magistrates

OWN CORRESPONDENT

(252)

ET 25/7/96

PRETORIA: As Justice Minister Mr Dullah Omar met prosecutors and state advocates here yesterday to defuse a looming crisis in the SA courts, regional court magistrates have expressed discontent at their earnings.

The Association of Regional Magistrates of South Africa said Omar's declared intention to narrow the pay gap between judges and magistrates had not materialised for regional magistrates.

A regional magistrate earns less than 50% of a judge's salary but has to preside over very serious criminal matters, including most murder cases which used to be in the exclusive jurisdiction of the Supreme Court, association chairman Mr T. Reed said from Durban.

The regional magistrates also said they had received the smallest increases in the entire judiciary.

Should doctors heal themselves?

(252) ARG 25/9/96

Doctors and other health professionals are duty-bound to put the interests of their patients first, taking an oath to this effect at the completion of their training. But what happens when they succumb to outside pressure and - either by omission or commission - collaborate with perpetrators of gross human rights abuses of severe physical and mental torture, in a system like the former apartheid regime? The South African medical profession is grappling with this issue as the hearings of the Truth and Reconciliation Commission shed increasing light on the often problematic relationship between district surgeons, security police and political detainees. In some quarters, there is strong support for a "Doctors' Truth Commission".

Argus Reporter JOHN YELD investigates the suggestion.

COLLABORATION between doctors and the perpetrators of gross human rights violations during the apartheid era is coming under increasingly close scrutiny - and there is support for a special "Truth Commission" focusing exclusively on the medical profession.

During public hearings of the Truth and Reconciliation Commission's human rights violations committee, several victims have been critical of district surgeons and private doctors.

Some of these victims alleged that they were denied proper medical care during periods of detention and torture, while others accused the doctors of subordinating their (the prisoners') interests to those of the security police and other security forces. This included treating them in the presence of their captors, in contravention of ethical medical practice.

In the most extreme case, one torture victim said he had heard a doctor telling security police that his seemingly imminent death could be disguised by stuffing porridge in his nose and throat, making it appear as though he had choked or suffocated. This was subsequently strongly denied by the doctor concerned.

The issue of collaboration between the medical profession and perpetrators of human rights, and possible amnesty or indemnity for such collusion was one of the key themes at a conference in Cape Town last year organised jointly by the Woodstock-based Trauma Centre for Victims of Violence and Torture and the International Rehabilitation Council for Torture

about issues such as amnesty for doctors involved in human rights abuses as countries emerged from repressive eras.

"As part of that conference, doctors called quite explicitly for some process like the Truth and Reconciliation Commission to enable the profession to come to terms with its past," he said.

A letter to that effect was sent to the South African Medical Journal for possible publication.

It has not appeared yet, but in the June issue of the journal there is a substantial article by one of Dr London's UCT colleagues, Judith van Heerden of the Department of Primary Health Care, in which she questions the "collective apology" offered last year by South Africa's medical profession for its role in supporting apartheid "by omission or commission."

The apology, offered by the Medical Association of South Africa (Masa, a voluntary professional association) was greeted with "joy and relief" by some members, Dr Van Heerden noted.

But, she continued, other Masa members did not share these feelings and there were doubts about the true value of the association's announcement.

"In a single sentence, Masa exonerates itself from the untold harm of the apartheid era.

"Examples include the restriction of medical school admissions on the basis of race, the segregation of hospitals and other health facilities, the maintenance of separate waiting rooms and toleration of interference with doctors' treatment of prisoners and detainees

Unity promoted," Dr Van Heerden said.

The most damaging aspect of the apology, Dr Van Heerden added, was that it denied Masa members the opportunity to reflect on and question the real meaning of human rights and medical ethics.

The "vagueness" of the Masa apology had prompted commentators in the South African Medical Journal to associate it mainly with the death of Steve Biko in detention in 1977 and the role of the two district surgeons who attended him.

"Doctors who plead ignorance could easily fall into the same trap of disregarding the complexity of professional organisations and individuals," Dr Van Heerden said.

The challenge for Masa was to find constructive ways of informing members and the public about the "dark past".

"The criticism levelled at the apology is that it is little more than an acknowledgement of previous wrongs, and (it) lacks the crucial element of disclosure.

"For doctors who are committed to the establishment of ethical norms, a pardon entails a visible change in behaviour from one of silence and denial to one of acknowledgement and disclosure.

"Disclosure involves scrutiny of past actions and remorse, something that will lend weight to the words," Dr Van Heerden said.

As the Truth and Reconciliation Commission was hearing more and more testimony from victims who had experienced abuse at the hands of state doctors during the apartheid era, the medical profession had an ethical obligation to take strong, corrective



MALAISE: Some victims of human rights abuses - physical and mental torture - testifying before the Truth and Reconciliation Commission have given the South African medical profession a headache, for which the cure might well be the appearance of doctors at a hearing

memes at a conference in Cape Town last year organised jointly by the Woodstock-based Trauma Centre for Victims of Violence and Torture and the International Rehabilitation Council for Torture Victims, which has its headquarters in Denmark.

One of those taking part, Leslie London of the Department of Community Health at the University of Cape Town's Medical School, said there had been in-depth discussions

race, the segregation of hospitals and other health facilities, the maintenance of separate waiting rooms and toleration of interference with doctors' treatment of prisoners and detainees

"It (the Masa apology) creates a bad impression because it is dismissive of the thousands who have been detained and tortured since 1960. It does not foster the culture of human dignity that the president and the Government of National

ing more and more testimony from victims who had experienced abuse at the hands of state doctors during the apartheid era, the medical profession had an ethical obligation to take strong, corrective action to deal with its past, Dr Van Heerden suggested

She proposed that Masa and the statutory South African Medical and Dental Council should undertake a "parallel process" of healing that involved telling the truth, forgiveness and reparation through the creation of a medical "Truth Commission"

However, such a process would be difficult to organise, and the names of the doctors involved would have to be confidential, Dr Van Heerden suggested

"Our past is littered with incidents where doctors neglected their caring duty. Collusion with the state was regarded as a patriotic duty by some of them

"(But) pointing fingers now only adds to the stress under which district surgeons work

"There has to be recognition of the pressure and tension under which these doctors fulfil an unglamorous and unrewarding task. Yet the mismanagement of the past cannot be overlooked"

The stories of victims would probably re-open deep wounds and would need an empathetic audience. Also, a debriefing mechanism would have to be in place for all who took part

Quoting a South African Medical Journal editorial of 1991, she concluded: "The pain and remorse of this process will be living proof of a commitment to ensure that 'what happened to Steve Biko should never be allowed to happen in any country that regards itself as civilised'"



SAVIOUR: Wendy Orr, a member of the truth commission.

'Never again' mooted as slogan for new SA

Sapa reports from
JOHANNESBURG

It was the Truth and Reconciliation Commission's responsibility to ensure that those guilty of torture and murder were exposed and made to admit the abuses they had committed, former Umkhonto we Sizwe veteran Laloo Chiba said yesterday.

"Only if they do so can there be true national reconciliation," he told the commission during its sitting in Soweto

Mr Chiba said "never again" must be the slogan for a new human rights culture in South Africa

It must be made absolutely clear to people in positions of authority that the new dispen-

sation would not tolerate violations of human rights in any circumstance, he said.

Mr Chiba and fellow MK veteran Rajee Gopal Vandeyar recounted in graphic detail the torture they suffered at the hands of the security police in the early 1960s

The two were flanked by Rivonia trialist and adviser to President Nelson Mandela, Ahmed Kathrada, who did not testify

Mr Vandeyar described how his torture 33 years ago had left emotional and physical scars that would never be forgotten

"I find myself in a difficult position to forgive these people is asking a lot," he said

Mr Chiba and Mr Vandeyar were arrested on April 17, 1963, after the attempted sabotage of

the Riverlea railway station

They were tortured at Langlaagte police station

Mr Vandeyar told the commission he was thrown into a room with 12 policemen and was kicked and punched until he lost consciousness

"I was used as football. I was revived and was beaten with a rifle butt, again losing consciousness."

A man dressed in a white coat and stethoscope had seen him and suggested police give him two apricots

Mr Chiba described how, following an assault in which his face was badly bruised and an eardrum punctured, he was covered by a wet sack and repeatedly given electric shocks on his hands and feet. The shocks continued for two hours

Biko family's move on TRC dismissed by court

(252) ARC 25/7/96

JOHN YELD and Sapa
on the Truth Commission

IT'S "business as usual" for the Truth and Reconciliation Commission after a landmark judgment by the Constitutional Court today that the commission's founding Act is constitutional

The court dismissed an application by attorneys acting for the Azanian People's

Organisation (Azapo) and the Biko, Mxenge and Ribeiro families asking that the Promotion of National Unity and Reconciliation Act be ruled unconstitutional

The basis of the application by Azapo and the families of the activists - all allegedly murdered by security forces - was that the state is obliged, in terms of international law, to "criminalise, prosecute and punish war crimes and crimes against humanity"

Because the Act allows perpetrators of human rights violations to be granted amnesty and indemnity from civil claims and criminal charges, the applicants claimed this was an unconstitutional denial of their right to redress and that the legislature had no right to pass this law

The ruling by the 11 Constitutional Court judges was unanimous

● Full report, page 5

Silence undermines truth body

(252) MFC 267-18196

Human rights abusers are staying away from the truth commission — and the attorneys general are being blamed, reports
Stefans Brümmer

THE Truth and Reconciliation Commission has been left in the lurch by those it needs most to solve the mysteries of the past — human rights abusers — and attorneys general are being blamed for their failure to show up.

The commission this week said while about 1 800 people have applied for amnesty, 1 650 of them are prisoners — known cases where convicts argue their crimes had a political dimension. Of the about 150 who are not prisoners, it appears no more than a few dozen involve “fresh” cases where no prosecutions have been instituted. Less than five months remain before the amnesty applications deadline of December 15.

Figures across the spectrum, from human rights lawyers and individual truth commission officials to representatives of the “old guard”, this week said the main reason perpetrators have failed to come forward is uneasiness that the possibility of self-exposure at the commission may damage their chances in courts of law.

Since the commission’s “proprietoriality test” may well mean those guilty of more serious crimes will not get amnesty in spite of confessions, many are staying put, taking a gamble on not being caught.

Some argue KwaZulu-Natal Attorney General Tim McNally’s indictment last week of Dirk Coetzee and security police colleagues — in spite of Coetzee and two of his co-accused having lodged amnesty applications — has increased perpetrators’ uneasiness about the truth process.

Human rights lawyer Bran Curran, who counts a number of perpetrators among his clients, said this week: “This has become a major problem. I have even advised some people not to apply.”

Curran said while the Promotion of National Unity and Reconciliation Act ruled out the courts using confessions before the truth commission’s amnesty committee as evidence, confessions may well alert attorneys general to the culprits in unsolved cases, who may then prosecute on the strength of their own investigations.

Dumisa Nisebeza, acting commissioner chair while Archbishop Desmond Tutu was abroad this week, said the



Will the truth out? Victims like former activist Murphy Morobe have inundated the commission, but the perpetrators are staying away

PHOTOGRAPH RUTH MORAU

Amnesty hurdle cleared

Mail & Guardian Reporters

THE Constitutional Court this week cleared a hurdle which barred potential amnesty applicants from confessing their crimes.

The court on Thursday shot down a bid by families of leading apartheid

victims to have sections of the National Unity and Reconciliation Act — which robs victims of their right to civil and criminal redress against human rights violators — declared unconstitutional.

The court held that the provisions in the Act honoured the Constitu-

tion, which stresses the need for the truth to emerge and for as wide as possible an amnesty to be granted.

Lawyers representing several of those seeking amnesty said earlier their clients were waiting for the judgment before making applications to the truth commission.

The judgment also clears the way for the commission’s amnesty committee to make known its first round of findings.

commission. Through the commission had taken no decision yet, it would not “waive any rights” allowed it by the Act to subpoena witnesses, including attorneys general, to supply information.

Nisebeza pointed to two instances of potential conflict with Jan D’Oliveira, Transvaal attorney general. D’Oliveira has made no secret that he regards the tentative approach to the commission by 22 former and serving security force operatives last month as an apparent attempt by some of them to pre-empt intended prosecutions — and that he still wants to prosecute in the more serious cases.

But Nisebeza said: “We have asked for all the relevant information [That means D’Oliveira] will not be able to prosecute in the medium term, but for us it is the wider picture. A complete picture can only emerge if we have as much information as possible.”

He also said the commission wanted to subpoena Joe Mamasela, the former Vlakplaas operative both McNally and D’Oliveira want to use as a state witness in exchange for indemnity. Said Nisebeza: “We have said we are not going to waive any of our rights, and we have in fact briefed legal counsel for an in-camera hearing [with Mamasela].”

Some attorneys general are known to be reluctant to hand over cases and witnesses as they believe their prosecutions — especially serious cases where amnesty may not be given by the commission — will be prejudiced irrevocably if they are first exposed to the quasi-judicial procedures of the amnesty committee.

McNally confirmed he had met other attorneys general in Pretoria this week. He would not say what the talks were about — apart from discussion over media criticism of his handling of the Coetzee case. It is likely the talks included aspects sur-

rounding the need for a co-ordinated approach where criminal prosecutions may have an impact on the workings of the commission.

It has been argued that the threat of prosecution is the “big stick” which will supplement the “carrot” of the commission’s amnesty offer in getting human rights perpetrators to confess.

Ironically, Curran — and Coetzee’s lawyer, Julian Knight — found themselves in bed this week with former police commissioner General Johan van der Merwe and the Foundation for Equality before the Law in attacking the approach of the attorneys general. The foundation, which has among its members top names from the apartheid security establishment, was established after McNally started his prosecution of former defence minister Magnus Malan.

While no one argued prosecutions should not be instituted against those who failed to apply for amnesty or failed to make full confessions, they agreed the “selective” prosecutions at the moment created uncertainty.

Said Curran: “The attorneys general — certainly McNally — have been acting in an unpredictable way. What we need is legislation that all [political] prosecutions are suspended pending the [finalisation of the] commission.”

Van der Merwe said: “You take a big risk if you ask for amnesty now, and then you are charged. After that you can hardly exercise your normal rights in terms of the Criminal Procedure Act — to exercise [your] right of silence, or to plead not guilty, or to wait and see the evidence.”

Knight said: “What the attorneys general are doing in deciding to selectively prosecute people is having the effect of putting people off from coming forward — which is protecting the master puppeteers of the old regime from detection.”

He pointed out that security force operatives applying for amnesty forfeited their chance of qualifying for state legal support should the matter go to court — as with Coetzee — since only those who maintained their innocence qualified under treasury regulations.

McNally this week said he looked at matters “from the other side” to that of the commission. “Is there anything to stop prosecutions where people have applied for amnesty or intend to ask?”

He said the Malan trial was not relevant to the amnesty debate, as the accused have maintained their innocence. In the Coetzee case, he has also not had any notification that the accused want a trial postponement pending their amnesty hearings.

McNally said the attorneys general had met the commission — and he was due to meet it again soon — to discuss areas where their interests overlap. D’Oliveira was not available for comment.

Court clears way for TRC amnesty rulings

26/7/96 (252)

Final mark of approval by Constitutional Court victory for the truth body

By Robert Brand

Fears that the Truth and Reconciliation Commission could become bogged down in a quagmire of legal disputes were dispelled with the landmark Constitutional Court ruling yesterday which put the final mark of approval on the legislation governing the commission

The ruling was the second legal victory for the commission in recent weeks

It won an appeal in the Supreme Court last month against an earlier judgment which, in effect, muzzled witnesses who wanted to name perpetrators of human rights violations at public hearings

That case had been brought by members of the former security forces.

Yesterday's ruling follows a challenge from a different quarter Azapo and the families of slain anti-apartheid activists Steve Biko, Dr Fabian Ribeiro and his wife Florence, and Griffiths Mxenge

They argued the commission's power to grant amnesty infringed on their constitutional right to have perpetrators of human rights violations prosecuted and to sue for civil damages

The court held that the commission's founding legislation - the Promotion of National Unity and Reconciliation Act - was consistent with the interim constitu-

tion, particularly the epilogue, which provides for the granting of amnesty to wrongdoers

"Every decent human being must feel grave discomfort in living with a consequence which might allow the perpetrators of evil acts to walk the streets with impunity, protected by an amnesty immune from constitutional attack," said Mr Justice Mahomed in his written judgment

Appeal to reconsider antagonism to commission

However, the commission was the result of an intricate compromise struck at the negotiating table, Judge Mahomed said

This entailed "a difficult, sensitive, perhaps even agonising balancing act between the need for justice for victims of past abuse and the need for reconciliation"

Without the amnesty provisions, perpetrators would not come forward to tell the truth about their deeds and the families of many victims would never know what had happened to them, the judge said

Amnesty committee chairman Mr Justice Hassen Mall welcomed the ruling, saying it would expe-

dite his committee's work

The committee could not make any rulings until the Constitutional Court case had been finalised

Judge Mall said although the committee had formally considered between 70 and 80 applications so far, no rulings would be made until after week-long amnesty hearings scheduled to start in Durban on August 12

Commission vice-chairman Dr Alex Borane said he was "delighted" by the ruling and appealed to the applicants to reconsider their antagonism to the commission

The ANC welcomed the ruling and called on perpetrators to make use of the commission's amnesty procedure to divulge the truth about the past

Azapo, however, described the decision as "a sad day for South Africa" and said it would consider taking its objections to an international tribunal

"This judgment has been politically expedient rather than upholding the rights of the individual," Azapo president Mosibudi Mangena said

Former police captain Dirk Coetzee, and four other former policemen were recently arrested in connection with Mxenge's death and are expected to face murder charges when they appear in court next month. They are each free on R1 000 bail.

Truth body hears how 4 white 'Inkatha spies' died

(252)

Mutilated and hacked to death in 'about two minutes'

Sapa
Kroonstad

It took two minutes for residents of Kuitwanong in the northern Free State to hack to death four whites suspected of being IFP spies planning an attack on the township, the Truth Commission's amnesty committee heard yesterday.

In a letter to the committee, Free State Attorney-General M T van der Merwe said the four had died a "horrible and gruesome death" and dismissed suggestions that the killings had been politically motivated.

He was referring to the amnesty application of ANC member Justice Segopa, who was jailed for 27 years for his part in

the panga and knobkerrie attack which ended with the corpses being set alight in their vehicle.

Segopa testified that he had taken part in the September 1990 attack because he believed the four to be "Inkatha spies" and because he wanted to "do away with apartheid".

The four victims were Basie van Niekerk of Rheeder Park in Welkom, Michael Belalie, Shirley Basson and Anthony Casey, all of Odendaalsrus.

Committee member Chris de Jager said according to evidence led in the trial of Segopa and 11 others, Basson had pleaded for her life and offered money to the mob. Instead, her breast was cut off and her eyes gouged out. Segopa, who was applauded

Star 26/9/96

by the gallery when he finished testifying, said Basson had burnt to death in the blazing car.

He said the only role he played that day was to pull one of the men out of the car and to set the vehicle alight.

"It took about two minutes to kill those people because there were so many of them (residents). They had knives and knobkerries," Segopa said.

He added that several days before the attack, ANC branch secretary Simon Menong had warned the community of an IFP attack.

He said he knew from listening to the radio that the IFP was an organisation which included whites and was responsible for attacks on the ANC. - Sapa.

1 251

Court rejects ratepayers' attack on fixed payments

Star 26/9/96

Although Pretoria city council had discriminated between residents in charging some, but not others, a fixed monthly fee for water and electricity supplies, this was reasonable and not based on race, the Pretoria Magistrates' Court ruled yesterday.

Magistrate P J Geldenhuys dismissed an application by the Pretoria Concerned Ratepayers Group.

He found the council had discriminated between residents of Atteridgeville or Mamelodi and those of other Pretoria suburbs. But this discrimination was related to different areas, not race.

The standard of services rendered to Mamelodi and Atteridgeville were inferior to those rendered in other suburbs.

The use of water and electricity in the former could for a long time not be measured because meters had not been installed.

However, many meters had been installed by June last year.

and the council's discrimination was highlighted by it not reading these meters.

Also, no steps had been taken against residents who failed to pay the fixed fee, whereas about 3 000 summonses for non-payment of accounts were issued in other suburbs.

He criticised the council for not correcting a municipal information pamphlet which stated all residents would pay the same rates from 1995. This fell short of public responsibility.

Geldenhuys said he was satisfied that an objective consideration of the facts showed the council's discriminatory conduct had been reasonable, and that there was no deliberate policy by the council to unfairly discriminate against anyone.

However, the council would not be able to justify its discrimination forever.

The ratepayers said later they would appeal against the judgment. - Sapa.

(252) Soweto Jan 26/7/96

A lesson for S Africa

THE scars of torture and abuse will never be forgotten by victims and this makes reconciliation a difficult process, the Truth and Reconciliation Commission heard in Soweto this week

Veteran Umkhonto weSizwe (MK) leader Rajeegopal Vandeyar said it was easy for people to say "forget and forgive", but some of the survivors have permanent physical and mental scars

"To forgive these people is asking a lot I'm not saying we shouldn't reconcile but it is very difficult," he said on Wednesday, seated in the shadow of the crucifix at Regina Mundi Church

In 1963 Vandeyar was assaulted by security policemen until he lost consciousness His spine was damaged, his ribs and nose were broken and his shoulder fractured

Severe torture

Vandeyar said he was not tortured as severely as some of his cadres, like Lalloo Chiba

The two men, both members of the first MK cells formed on December 16 1961, were supported at the hearing by the adviser to President Nelson Mandela, Ahmed Kathrada

Vandeyar said the people responsible should be brought to book even though it might be enough "to expose them to the public" However, he was doubtful that South Africa as a nation would learn from its mistakes

"In London, I met Palestinians who had been brutally tortured in Israel (Yet) Jewish people suffered a great deal in World War 2 and before that they were persecuted You look at the Palestinians and you wonder 'Do people ever learn a lesson?'"

Never again

Chiba emphasised that the new human rights culture in South Africa should adopt the slogan "Never again!" He said the new authorities must know that human rights violations will not be tolerated under any circumstances

Chiba was assaulted and tortured with electric shocks, while being suffocated with a wet sack

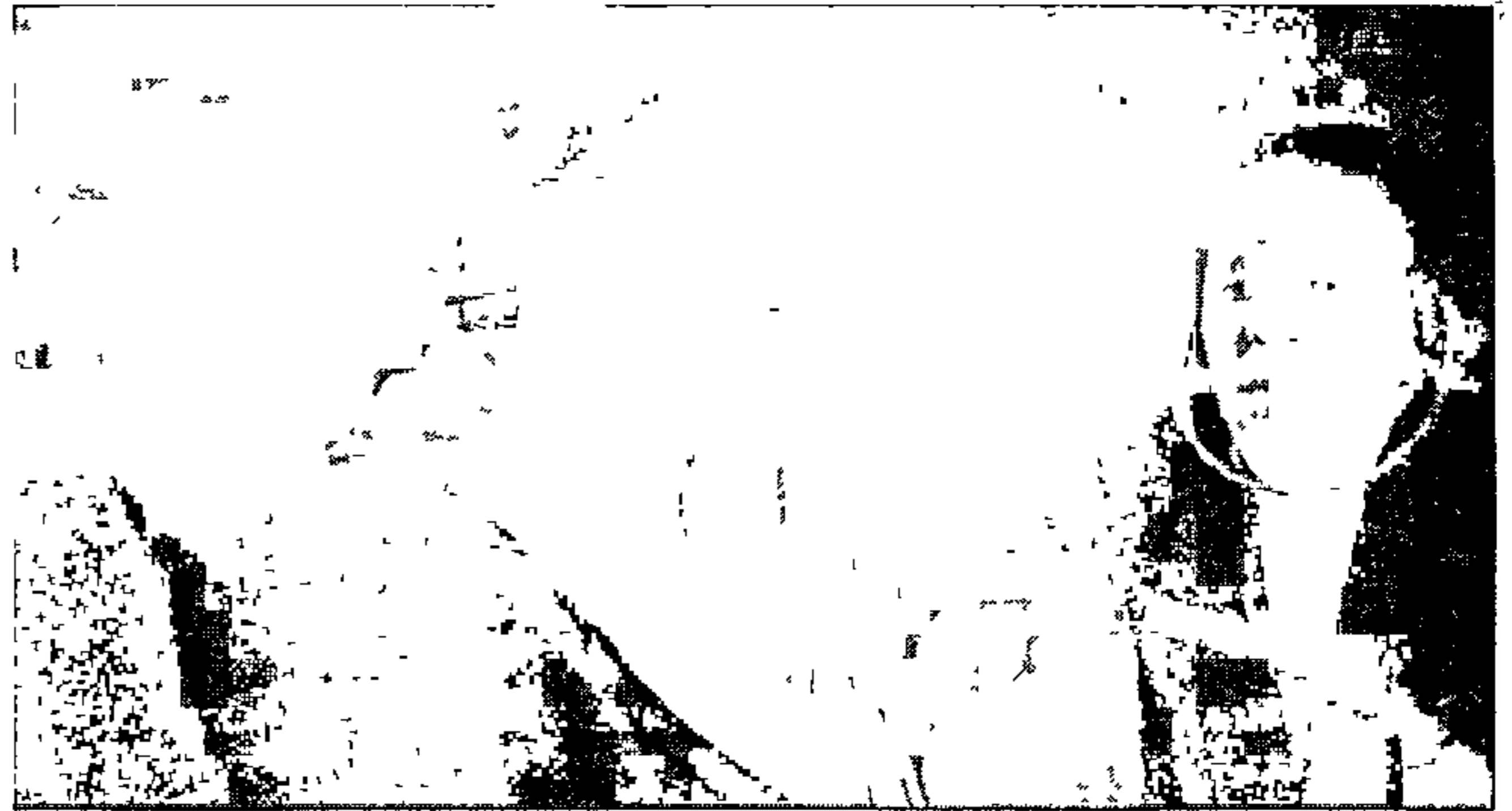
"All I could do was scream out in pain," he said, regretting that he had cried for mercy in his agony

He agreed that the perpetrators of abuses should be made to admit to the crimes they committed "Only if they do so can there be true national reconciliation"

The commission, in particular the Human Rights Violations Committee, will have to struggle to fulfil the dual challenges of truth and reconciliation

Many witnesses are more interested in jus-

The next few months will be critical in defining the role and effectiveness of the Truth Commission. Feature Writer **Claire Keeton** considers what is needed to allow a true picture to emerge...



Truth Commission witness Mamsese Mhlongo with her sister Ruth Radebe (right) testifying at the Human Rights Violations Committee hearing in Soweto on Wednesday.
PIC LEN KUMALO

...tice than reconciliation, and the commission must take care that the accounts presented to it are as accurate as possible

The investigative and research teams are responsible for corroborating the basic statements of witnesses before they appear at public hearings, but the staff are finding it hard to keep up with an overwhelming workload

Mamsese Mhlongo told the commission on Wednesday about the suspicious death of her brother Dick Radebe in a car accident But it became clear during her testimony that the commission had not had time to check her documents before the hearing

A human right's lawyer, Radebe died on July 16 1987 - a week before his wedding

"We do not believe it was an accident We saw Dick's head was bashed in when we went to collect the corpse I suspect Dick was killed by police," Mhlongo said

She said the names and addresses of the 13 witnesses provided by the police were false and asked the commission to investigate

The commission has a hectic schedule of public hearings until December, with dozens of sittings across the country The Johannesburg office, for example, has weekly hearings in Gauteng, Northern Province and Northern Cape scheduled for before Christmas

This week in Soweto, the Commission held its first "event" hearing into June 16, 1976 Prominent Soweto community leaders Ms Ellen Khuzwayo and Mr Murphy Morobe were among the witnesses, along with photo-journalists Sam Nzima and Peter Magubane

Magubane's exhibition at Regina Mundi highlighted the tragedy of the police shootings

Antoinette Sithole described the death of her 12-year-old brother Hector Petersen, and Amelia Molapo told the commission how she was shot and permanently paralysed on June 16 at the age of 11

The hearing vividly captured the historic events of June 16, which sparked off the 1976 student uprisings, but it failed to uncover new truths about the conduct of the police or the complicity of most mainstream media with police at the time

The next few months will be critical in defining the role of the Truth Commission whether it has the capacity to move into uncharted territory and expose hidden human rights violations, or whether it will be limited to documenting known atrocities from 1960 to 1993

Unless the perpetrators of abuse reveal information and show remorse for what they did, it will be virtually impossible to have a true picture of the past or to have true reconciliation

Azapo aims to appeal ruling

(252) Sowetan 26/7/96

By Joe Mdhlela
Political Reporter

THE Azaman People's Organisation intends to challenge the ruling by the Constitutional Court which yesterday rejected its application to have provisions of the Promotion of National Unity and Reconciliation Act declared unconstitutional.

Azapo intends to take up the issue with the World Court.

The court ruled in favour of President Nelson Mandela, and other respondents including Truth and Reconciliation Commission chairman Archbishop Desmond Tutu, Minister of Justice Mr Dullah Omar and Minister of Safety and Security Mr Sydney Mufamadi.

However, Azapo president Mr Mosibudi Mangena said his organisation was unhappy about the ruling.

"The judgment, in our view, was more political than legal in that it addressed itself to political issues, rather than making legal considerations.

"We are obviously disappointed, but this will not be where the matter will end. We have a number of options, including taking the matter to the international tribunal, the World Court in Geneva," Mangena said.

He said international bodies,

including the World Council of Churches and the United Nations, have declared apartheid a heresy, and it was in line with this that Azapo and families of victims of apartheid had contested some of the provisions of the Promotion of National Unity and Reconciliation Act.

However, in passing judgment Deputy President Judge Mohamed said "The court held that amnesty for criminal liability was permitted by the epilogue because without it there would be no incentive for offenders to disclose the truth about past atrocities. The truth might unfold with such amnesty, assisting in the process of reconciliation and reconstruction."

Crucial component

The court also noted that such an amnesty "was a crucial component of the negotiated settlement, without which the Constitution would not have come into being."

Mohamed argued that the amnesty provisions were not inconsistent with international norms "and did not breach any of the country's obligations in terms of public international instruments."

He said Parliament was entitled to adopt a wide concept of reparation for victims which would allow the state to decide on proper reparation.

ASSASSINATIONS, ROCKET ATTACKS

Total onslaught devastated lives

(252)
CT 26/7/96

SOWETO: The devastating effects of the 'total onslaught' on the lives of activists in exile were highlighted in the TRC hearings yesterday. **ROGER FRIEDMAN** reports.

WHERE Joe Gqabi around today, he would probably be in President Nelson Mandela's cabinet

But Gqabi, who served a 12-year prison term on Robben Island and then became the ANC's chief representative in Zimbabwe, was assassinated by apartheid agents in Harare in August 1981

Two weeks later an explosion at a Zimbabwean military base outside Harare destroyed armaments then worth US\$52 million. And four months later an explosion ripped apart the ruling Zanu party headquarters in Harare, killing six Christmas shoppers and wounding 100 others

TRUTH & RECONCILIATION COMMISSION

South Africa had begun to export its 'total onslaught' yesterday Mrs Nomazoliswa Gqabi asked the TRC to arrange psychiatric treatment for her son — a son who hardly knew his father

While Gqabi was on the island, his children could not see him because of a rule prohibiting visits by children under the age of 16

On his release in 1975 he returned home then he was arrested again

As one of the suspects in the so-called Pretoria Twelve terrorism trial, Gqabi was detained, awaiting trial, for 15 months

When the charges were withdrawn he fled to Botswana. The family followed, but Gqabi was posted to Lusaka and then to Zimbabwe to open an office in Harare

He survived one attempt on his life when a bomb was found under his car. For his own safety he moved out of the ANC's residence, leaving his support staff — Mr Shadrack Ganda and Ms Geraldine Fraser-Moleketi — to hold the fort

But it was there that he lost his life, at dusk, riddled with bullets in the driveway as he was leaving after a meeting

Fraser Moleketi, now Minister of Welfare and Population Development, was held by the Zimbabwean police for about two weeks in connection with the crime, Ganda said

"There is no doubt in my mind that Joe Gqabi had no enemies other than the South African state, as it was at the time," he said, going on to describe the bungled Zimbabwean police investigation, how Zimbabwe's security forces had not yet been purged of South African agents or influences, and how keen they had been to get at the ANC's files

Both the ANC residence and the ANC office were later destroyed by explosives planted during a late-night attack for which the SADF admitted responsibility

In May 1987 there was a rocket attack on the ANC's new suburban office, 12 days later the Zimbabwean wife of a South African exile was killed by a booby-trapped television set, five months later a car-bomb at a Harare shopping-centre injured two ANC activists, in January 1988 a car-bomb exploded outside a house in Bulawayo

Cross-border raids and operations were also conducted in Swaziland, Lesotho, Botswana, Zambia, Angola, Mozambique, Namibia, Paris and London



DESPAIRING PARENTS: Caroline and Nicodemus Sono tell the Truth Commission about the disappearance of their son, Lolo, who Mr Sono says he last saw in the presence of Mrs Winnie Madikizela-Mandela. **PICTURE: THE STAR**

Way cleared for granting amnesties

(252)
CT 26/7/96

OWN CORRESPONDENT

THE Constitutional Court ruling yesterday approving the legality of the Truth and Reconciliation Commission dispelled fears that the commission could become bogged down in legal disputes

The ruling was the commission's second legal victory in recent weeks. It won an appeal in the Supreme Court last month against an earlier judgment which, in effect, muzzled witnesses who wanted to name perpetrators of human rights violations at public hearings

That case was brought by members of the former security forces. Yesterday's ruling followed a chal-

lenge from Azapo and the families of slain anti-apartheid activists Mr Steve Biko, Dr Fabian Ribeiro and his wife Florence and Mr Griffiths Mxenge

They claimed the commission's power to grant amnesty infringed their constitutional right to have perpetrators of human rights violations prosecuted and to sue for damages

The court held that the commission's founding legislation — the Promotion of National Unity and Reconciliation Act — was consistent with the interim constitution, which provides for the granting of amnesty to 'wrongdoers'

"Every decent human being must feel grave discomfort in living with a consequence which might allow the perpetrators of evil acts to walk the streets with impunity, protected by an amnesty immune from constitutional attack," said Mr Justice Ismael Mohamed in his written judgment

However, the commission was the end result of an intricate compromise struck at the negotiating table. This entailed "a difficult, sensitive, perhaps even agonising balancing act between the need for justice for victims of past abuse and the need for reconciliation"

Without the amnesty provisions, perpetrators would not come forward to tell the truth about their deeds and the families of many victims would never know what had happened to them, Judge Mohamed said

Winnie 'knows nothing' about claims to TRC

DENNIS CAVERNELIS
Staff Reporter

(252)
ARG 26/9/96

WINNIE Madikizela-Mandela first learned in the media of allegations at the Truth Commission that she was responsible for the disappearance of two youths, her attorney said today.

"Save for what we have read in the newspapers, we know nothing (about these allegations)," the attorney, Moses Mavundla, said in Pretoria.

At a Truth and Reconciliation Commission hearing in Meadowlands, Soweto yesterday, Nicodemus Sono said he had last seen his son Lolo, in November 1988, with Mrs Madikizela-Mandela and her Mandela United Football Club.

Nomsa Shabalala's son Siboniso also disappeared after trying to clear his and Lolo's name, after they had been accused of being police spies. Both youths were members of the Mandela United Football Club.

The youths were accused of causing the deaths of uMkhonto weSizwe commanders.

Mr Mavundla said Mrs Madikizela-Mandela had not been approached by the commission to give evidence, and no decision had been taken on whether she would be appearing voluntarily before the commission to make a statement or give evidence.

He could not comment on whether his client would be taking any legal or other action in the wake of the allegations made at yesterday's hearing.

● See page 5

Constitutional Court ruling opens the way for granting of amnesty

Wynndham Hartley and Kevin O'Grady

CAPE TOWN — The amnesty committee of the truth commission is to take urgent steps to speed up the granting of amnesty to political offenders following a landmark judgment by the Constitutional Court yesterday.

The judgment, handed down by deputy president of the court, Judge Ismail Mahomed, found that the challenge by Azapo and the families of slain activists Steve Biko, Fabian and Flo-

rence Ribero and Griffiths Mxenge had failed to prove that the amnesty powers of the commission were unconstitutional. It prevents victims of human rights abuses from suing the state or perpetrators granted amnesty.

The challenge, brought this year on the grounds that the granting of amnesty infringed the right of victims to justice, effectively slowed the amnesty process, although the committee has proceeded with hearings. Acting truth commission chairman Dumisa Ntsebeza told a news briefing

there were fears of a "bottleneck" as the December 15 cut-off date for amnesty applications approached.

Commission media director John Allen said it had been decided that two of every four weeks in the future would be devoted to amnesty hearings.

Ntsebeza expressed the hope that the Biko, Ribero and Mxenge families and Azapo would "engage" with the commission. The commission's reparations committee would "go a long way" to meeting their expectations. "The decision frees the amnesty com-

mittee to hear and decide on amnesty for Dirk Coetzee, self-confessed killer of ANC lawyer Griffiths Mxenge. Coetzee, who has applied for amnesty for offences committed while commander of Vlakplaas security police base, was recently arrested in connection with the 1981 murder.

In his judgment, with which nine other judges concurred, Mahomed acknowledged that the disputed section 20(7) of the Promotion of National Unity and Reconciliation Act limited the applicants' right in terms of section 22

Truth

(252) BD 26/7/96

Continued from Page 1

in the course of the conflicts of the past, sanctioned the limitation on the right of access to court.

Without the amnesty permitted by the epilogue, there would be no incentive for offenders to disclose the truth about past atrocities, the court held. Azapo president Moshudi Mangena

said his organisation would consider taking the case to an international tribunal for reconsideration.

Sapa reports that an amnesty application by Kwane Sebe, son of former Ciskei leader Lennox Sebe, will be heard by the amnesty committee in East London next week. Sebe, former commander of the Elite Unit of the Ciskei police, is serving 21 years in jail for the bombing of the bottle store and house of his former second-in-command, Zandisile Ngwanya.

of the constitution to "have justiciable disputes settled by a court of law". However, in terms of section 33(2) of the constitution, the violation of rights was permissible if sanctioned by the constitution or justified by its limitations clause.

The court held that the epilogue to the constitution, part of which said "amnesty shall be granted in respect of acts, omission and offences associated with political objectives and committed

Continued on Page 2

(252) amnesty

'Collective apology' by doctors comes

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A truth probe focusing on the medical profession has been urged, in spite of Masa 'exonerating itself from the untold harm of the apartheid era', writes **JOHN YELD**

the doctors of subordinating the prisoners' interests to those of the security police and other security forces. This included treating them in the presence of their captors, in contravention of ethical medical practice. In the most extreme case, one torture victim said he had heard a doctor telling security police that his seemingly imminent death could be disguised by stuffing porridge in his nose and throat, making a *victim said he heard a doctor telling police his death could be disguised by stuffing porridge up his nose and throat*.

Collaboration between doctors and the perpetrators of gross human rights violations during the apartheid era is coming under increasingly close scrutiny - and there is support for a special "truth commission" focusing exclusively on the medical profession.

During public hearings of the Truth and Reconciliation Commission's human rights violations committee over the past few months, several victims have been critical of district surgeons and private doctors. Some of these victims alleged they were denied proper medical care during periods of detention and torture, while others accused

by the Woodstock-based Trauma Centre for Victims of Violence and Torture and the International Rehabilitation Council for Torture Victims, which has its headquarters in Denmark. One of the participants, Leslie London of the department of community health at the University of Cape Town's Medical School, said there had been in-depth discussions about issues such as amnesty for doctors involved in human rights abuses as countries emerged from repressive eras.

"As part of that conference, doctors called quite explicitly for some process like the Truth and Reconciliation Commission to enable the profession to come to terms with its past," he said. A letter to that effect was sent to the SA Medical Journal

for possible publication. It has not appeared yet, but in the June issue of the journal there is a substantial article by one of Dr London's UCT colleagues, Dr Judith van Heerden of the department of primary health care, in which she questions the "collective apology" offered last year by South Africa's medical profession for its role in supporting apartheid "by omission or commission".

The apology, offered by the Medical Association of South Africa (Masa), a voluntary professional association, was greeted with "joy and relief" by some members, Van Heerden noted. But, she continued, other Masa members did not share these feelings and there were doubts about the true value of the association's announcement. "In a single sentence, Masa exonerates itself from the untold harm of the apartheid era. Examples include the restriction of medical school admissions on the basis of race, the segregation

tion of hospitals and other health facilities, the maintenance of separate waiting rooms by doctors, and toleration of interference with doctors' treatment of prisoners and detainees. "It (the Masa apology) creates a bad impression because it is dismissive of the thousands who have been detained and tortured since 1960. "It does not foster the culture of human dignity that the president and the Government of National Unity are promoting," Van Heerden said.

The most damaging aspect of the apology, she added, was the fact that it denied Masa members the opportunity to reflect on and question the real meaning of human rights and medical ethics. The "vagueness" of the Masa apology had prompted commentators in the SA Medical Journal to associate it mainly with the death of Steve Biko in detention in 1977 and the role of the two district surgeons who had

attended him. "Doctors who plead ignorance could easily fall into the same trap of disregarding the complicity of professional organisations and individuals," Van Heerden said.

The challenge for Masa was to find constructive ways of informing members and the public about the "dark past".

"The criticism levelled at the apology is that it is little more than an acknowledgement of previous wrongs, and (it) lacks the crucial element of disclosure. For doctors who are committed to the establishment of ethical norms, a pardon entails a visible change in behaviour from one of silence and denial, to one of acknowledgement and disclosure. "Disclosure involves scrutiny of past actions and remorse, something that will lend weight

to the words," Van Heerden said. As the Truth and Reconciliation Commission was hearing more and more testimony from victims who had experienced abuse at the hands of state doctors during the apartheid era, the medical profession had an ethical obligation to take strong, corrective action to deal with its past, Van Heerden suggested. She proposed that Masa and the statutory SA Medical and Dental Council should undertake a "parallel process" of healing that involved truth-telling, forgiveness and reparation through the creation of a medical "truth commission".

However, such a process would be difficult to organise, and the names of the doctors involved would have to be kept confidential, Van Heerden suggested. "Our past is littered with incidents where doctors neglected their duty. Some saw collusion with the state as patriotic

gested. "Our past is littered with incidents where doctors neglected their caring duty. Collusion with the state was regarded as a patriotic duty by some of them. "(But) pointing fingers now only adds to the stress under which district surgeons work. There has to be recognition of the pressure and tension under which these doctors fulfil an unglamorous and unrewarding task. Yet the mismanagement of the past cannot be overlooked."

The stories of victims would probably reopen deep wounds and would need an empathetic audience.

Also, a debriefing mechanism would have to be in place for all participants, Van Heerden said. Quoting an SA Medical Journal editorial of 1991, she concluded. "The pain and remorse of this process will be living proof of a commitment to ensure that whatever happened to Steve Biko should never be allowed to happen in any country that regards itself as civilised."

27/7/96
Under Fire

A long road from herdboy to chief magistrate

By TOMMY MAKOE

Johannesburg's new chief magistrate, Mncedisi Charlton Bashe, has come a long way from his days as a herdboy in the rolling hills of Transkei, where he was born in the village of Tabankulu

From his spacious office at the Johannesburg Magistrates' Court you can hear the Fox Street traffic. But neither time nor position has blurred this 53-year-old's memory of early hardship

"Back then, the only transport for my family was a horse. Working took priority over everything because my father was a peasant farmer. We had to work to bring food home," he said

Bashe, who now spends his days administering the fight for justice, recalls how, as a young boy, weekends were spent stick-fighting with his friends

"It was my favourite pastime. Stick-fighting was important and determined who the boss was."

I asked him: "And who was the boss?"

He did not say.

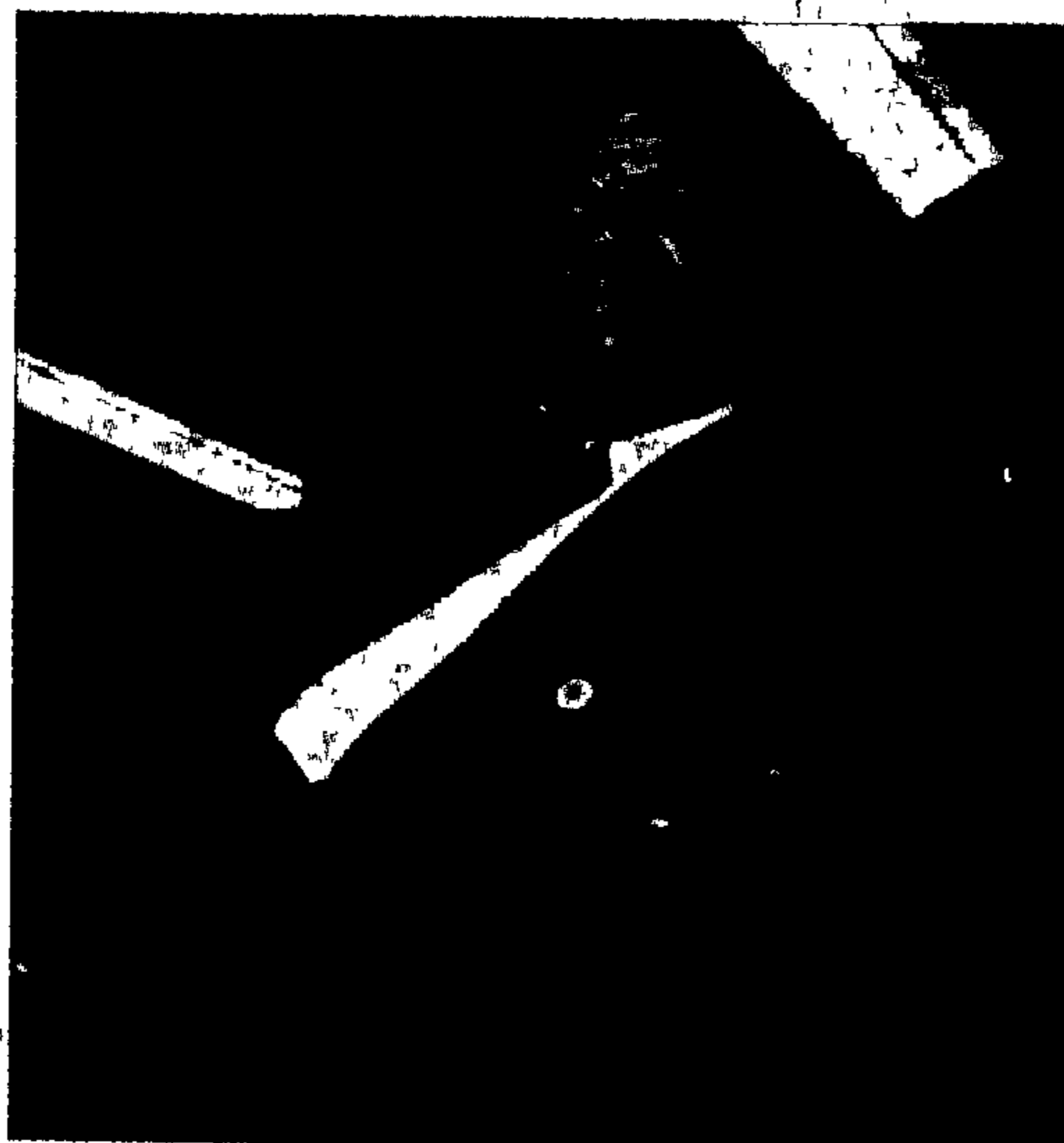
"I was average, just like in football. But I can still use the sticks. That you do not forget," he said.

Although he had faced many difficulties, his journey through life had been worthwhile.

Over the years, his extramural activities fell away as he began concentrating on his education. He passed his Junior Secondary Certificate (Std 8) with distinction at Mnceba Secondary School, before setting off to tackle the world.

With only his high school qualification, and in an area with few employment opportunities, Bashe joined the Transkei police after working as a prison warder in the Transkei Department of Correctional Services.

"I wasn't interested in the job or the field of law then. My interest only developed in 1969 when I was



ON THE BENCH: Johannesburg's new chief magistrate, Charlton Bashe, is confident in his new role. PHOTOGRAPH: ANTON HAMMERL

sent on a four-month prosecutors' course."

After passing the course, he started working as a prosecutor. "I did not find it difficult to prosecute, because of my police background. For me a police officer has almost as much knowledge of the law as a prosecutor. When you investigate as a police officer you get into the essentials of law. In fact, my police experience helped me a lot in my legal studies."

At the same time, he studied by correspondence for his matric certificate. It took him three years to complete.

In 1974 he had been promoted to the position of magistrate after serving as a prosecutor for five years. He then studied for a law diploma in 1976 and for a B Juris, a junior law degree, through Unisa. He was transferred to Maluti in 1982 as a senior magistrate.

He graduated in 1986. It was a struggle and Bashe believes that if he had been born into an affluent family in an urban environment, his route to the top of his profession would have been faster and easier.

After his graduation he began working as a senior magistrate in

Lusikisiki. Bashe has worked as a chief magistrate from 1993 and was promoted to special-grade chief magistrate. He never took this post, because he came to Johannesburg.

He worked in a small court in Bizana, Transkei, and it was while here that he saw his current position advertised. *Nov 27/1996*

His new appointment makes him accountable for the management of all of Johannesburg's courts, which include the branch courts in Soweto, Lenasia and Kliptown.

"My responsibilities are definitely going to be increased because Johannesburg is the biggest city in southern Africa," said Bashe.

He is confident he will do the job well, "especially with the help of my staff. They are reliable and efficient."

"Since I started my new work at the beginning of this month, I have been doing lots and lots of administration work."

"Looking at the amount of administration I do every day, I think it will be practically impossible for me to preside in court," he said.

Sketching idly on a piece of paper, he said he does not want to formulate any perceptions about Johannesburg and its criminal and legal problems.

"All I want to say is that whoever infringes the law will be punished. With the help of the police and the community we will win against crime."

With more than 19 years' experience in law behind him, Bashe is one of South Africa's most experienced black magistrates.

He expresses no regret about gaining experience in a former homeland.

"Actually, it helped me to be what I am today. The former self-governing country gave me the experience I have today."

"The greater part of my life is in the past and I have few regrets."

Bringing justice to all our people



Placing courts in the community will reduce the need for citizens to take the law into their own hands, writes DULLAH OMAR

ST 28/7/96

(252)

THE editorial "Put the community on the bobby's beat" (July 21) comes as a breath of fresh air and has moved the debate on fighting crime to a more constructive level.

I have, if I may say so, been advocating community participation in justice matters at many levels.

For example, as a start we introduced the system of lay assessors in magistrates' courts. There was some opposition to this, particularly among those who think along traditional lines.

However, the participation of assessors in courts is designed to bring the voice of communities into courts.

Of course, a degree of training is necessary but, fundamentally, the idea is to bring communities and courts closer to each other.

There is a problem attached to it, however — some people appointed as lay assessors regard such positions as employment. But the post is not meant to be a job. It is meant to represent community service and community participation.

We need to develop a proper approach in our communities to that role.

We also see the introduction of the assessor system as only a forerunner for introducing community courts in our country.

Earlier this year I spelt out to the National Assembly the important role that community courts can play within the judicial system.

Of course, we need to move carefully because we do not want to develop kangaroo courts: it is extremely important that individuals don't take the law into their own hands.

There needs to be a uniform, systematic approach, with community courts organised on and following clearly defined rules and guidelines.

Lay judges or magistrates drawn from communities must serve as the presiding officers.

They, too, will need some training.

Instead of introducing the system of community courts in an unstructured way, I have arranged for a pilot project to be launched in several areas in our country.

The Community Peace Foundation at the University of the Western Cape is spear-

heading the pilot project, and planning is already at an advanced stage.

In fact, the Community Peace Foundation has been instrumental in assisting prototype community courts in a number of areas.

In places like Alexandria in the Eastern Cape and other parts of the country there have also been initiatives which are extremely useful.

These community courts have been restricted to the so-called black areas up to now, but we see community courts, which deal with small matters, concentrate on alternative dispute resolution mechanisms and implement principles of restorative justice, to be viable in all communities.

We also hope to extend the small claims court system to all parts of the country and all communities.

At present attorneys and advocates donate their services to the small claims courts.

In a South Africa in which the tendency of demanding payment for services at every level is increasing, such service without remuneration is to be applauded.

Some form of payment, of course, is necessary.

The idea of neighbourhood courts dealing with minor civil and even petty criminal matters is a good one.

The juvenile justice system will also provide for the removal of juveniles charged in minor matters from the criminal justice system.

Community courts or neighbourhood courts can play a very important role in this.

I see the existence of these structures of justice in communities as part of a more general approach; an approach which will empower communities to deal not only with law-and-order matters but with issues relating to reconstruction and development.

The existence of structures and procedures of the kind referred to will undoubtedly provide access to justice for more and more people.

It will help to get people to move away from taking the law into their own hands and from applying their own law — violence.

● Omar is the Minister of Justice

En Passant

Second chance for Maritzburg

By CHRIS HLONGWA

WITH MANY people in the midlands still applying to testify before the Truth and Reconciliation Commission, the commissioners have decided to have another hearing in the area soon.

Initially set down for three days, the commission extended its heavily attended Pietermaritzburg sittings this week by another day, but still people flocked in from the area that was dubbed the "Berrut of South Africa".

A commissioner said a sitting is planned for early September and

will focus on the notorious "Seven Days War" of 1990 in which the ANC and Inkatha were fighting a bitter struggle for supremacy.

Only a few cases relating to the period have been heard.

And unlike this hearing, where victims came forward with evidence, the commission will also go out to get evidence itself.

Described by academic John Aitchison at the beginning of the hearings, the "war" was a graphic illustration of security force collusion in murder and mayhem.

"Huge groups of Inkatha supporters were allowed virtually unhindered to rampage through areas

of Vuhndlela," he said

Aitchison said the control centres of the attacks seemed to be Inkatha MPPs. David Ntombela's headquarters in Vuhndlela.

Ntombela, an induna of one of the chiefs in Vuhndlela, had often been accused of involvement with UDF supporters.

"He was closely linked to the security forces, and when the December 1988 massacre perpetrators came to trial evidence was led that Ntombela had been at planning meetings with the police involved in the killings," said Aitchison.

Some names of the people who are believed to have been the cause

of some of the misery were repeatedly mentioned in the hearings

They included former security policeman Warrant Officer Wolfgang Warber, who allegedly played a major role in stoking violence at Imbali township.

He is now an inspector in the Crime Investigation Services.

Aitchison mentioned Colonel Kobus Dreyer and his successor Brigadier Jac Buchner, who later headed the KwaZulu Police.

Another commission sitting was also proposed for women who had borne the brunt of the human rights abuses down the years.

(252) CP 28/1996

WHEN the Judicial Service Commission gets down to business in Cape Town tomorrow, the first to field its questions will be Judge Edwin Cameron, one of 33 candidates being interviewed for some of South Africa's top legal jobs.

On the other side of the table will be 17 members of the commission, arguably the country's most influential legal body. They are responsible for recommending candidates for judicial office, and their choices in the two years since the commission was formed have already begun to reshape the judiciary.

They will spend the week interviewing candidates for two posts in the Appeal Court, eight in the Supreme Court and one in the Land Claims Court. They also have to recommend candidates for the new Labour Court and the Labour Appeal Court, set up under the 1995 Labour Relations Act.

For both the commissioners and Judge Cameron, there will be a sense of *déjà vu* — at the commission's first session, nearly two years ago, when they grilled candidates for the Constitutional Court, he was also first on the list, setting a standard of debate reached by few others.

At the time, he was a University of the Witwatersrand professor and an acting judge. Now he is a member of the Supreme Court in Gauteng and in line for a post in the Labour Appeal Court.

The commission will interview four other judges for this court. Piet Combrinck and Chris Nicholson of the Natal bench, Johan Corradie of Cape Town and Frank Kroon of Grahamstown. The three chosen will sit with Judges John Myburgh and Johan Froneman, already named Judge President and Deputy Judge President.

Three factors make these hearings the most important since the commission's first session.

● The number of candidates and vacancies are unusually high,

Issues such as accountability, suitability, and competence to serve in the judiciary come under the spotlight when judges wishing to serve in higher and other courts find themselves cross-examined by the Judicial Service Commission this week. **CARMEL RICKARD** reports

Judging THE JUDGES

ST 28/4/96
(202)

● The commission is making history by helping select members of the two new labour courts, and

● Commissioners can test their new, standardised questionnaire. In all, the commissioners will interview nine judges, 11 advocates, seven attorneys, five academics and one magistrate.

All candidates have completed the form, which asks about their reported decisions, published articles and most important cases. It also inquires about their membership of political and secret organisations, health and financial interests and circumstances which

may embroil them as a judge.

Of the four candidates for the Appeal Court, only one — Supreme Court Judge Pieter Streicher — has provided his details to the Sunday Times. In all, 26 of the 33 candidates agreed to provide their questionnaires. Streicher is the only one to report membership of a secret organisation — the Ruiterwag, a group close to the National Party, from 1964 to 1977.

Several other candidates stand out. Advocate Essop Patel, for example, who will be considered for a Transvaal Supreme Court va-

cancy, has a "double life" as a poet and Congress of South African Writers founder member.

An unexpected bid for the Supreme Court comes from Simon Ndlovu, a Durban regional court magistrate. Traditionally, it has been argued that magistrates should not be appointed to higher courts, but this is now possible.

Ndlovu presents an impressive curriculum vitae, including a Fulbright scholarship during which he obtained a master's degree in law from Temple University in Philadelphia. He was awarded the degree *magna cum laude*, the

first legal master's student to attain this distinction at Temple.

The candidates' interests and backgrounds differ widely, from a former member of the National Party to an emergency detainee and a member of the New Unity Movement, from a calligrapher to a member of People Opposing Women Abuse.

For both the public and the commission, the new form is important, allowing a more open test for "judging the judges".

At the urging of a commission member — Wits-law professor Etienne Murenik, who died ear-



AWAITING VERDICT . . . Edwin Cameron, left, nominated for seat on the Labour Appeal Court

lier this month — the commission now routinely holds its interviews in public. Mureinik, who will be replaced this session by Natal University law professor John Milton, argued that since candidates will hold public office, there is a legitimate public interest in knowing more about them.

But are the new questionnaires confidential documents or a vital part of the open process to which the commission is committed?

Chairman of the General Council of the Bar, Malcolm Wallis SC, says it is self-evident that the media should have access to them. This would enable them and interested individuals to do their own research into candidates.

The commission has taken the line that while it does not give the media automatic access to the

forms, it has no objection to nominees supplying the media with completed copies. It was on this basis that the Sunday Times approached the candidates.

Five, including two Appeal Court candidates, refused, saying the material should be confidential. One did not return several calls requesting the information and one could not be reached.

The others readily supplied the information, with several saying it should be given to the media in the spirit of openness.

Those who refused were Supreme Court judges F D J Brand of Cape Town and C Plewman of Johannesburg, Durban attorney Sungaree Pather, Durban advocate T A Sishi and University of Zululand law professor A E B Dhlodlo.

Commissioners will no doubt ask themselves whether a poor attitude to the media in a democracy is compatible with the values of the new Constitution, which judges must uphold and promote.

Similar questions must be asked about whether those who refused to divulge the contents of their questionnaires would enhance the ability of courts to promote openness and accountability.

Wallis said he was surprised at some candidates' decision not to release their forms.

"They have no right to say 'no'," said Raymond Louw, chairman of the Freedom of Expression Institute. "They're standing for public office. Reasonable questions are put to them and the answers should be made available."

Police still to be charged

(252) M+G 28/6-4/7/96

Stefaans Brümmer

TRANSVAAL Attorney General Jan D'Oliveira will go ahead with plans to charge some of the 22 policemen who approached the Truth and Reconciliation Commission this week, saying their offer to co-operate with the truth body may "well be" an attempt to pre-empt prosecution.

D'Oliveira confirmed there was a "significant overlap" between the 20 crimes the group was contemplating confessing and crimes his office was investigating, or which had surfaced during his office's prosecution of former Vlakplaas hit-squad commander Eugene de Kock.

D'Oliveira, who directs a special investigation team into apartheid security force crimes, agreed it was "indeed possible the intended step may be an attempt to pre-empt prosecution", but said: "As far as I am concerned, the law should run its course."

It emerged this week that the group of 22 former and serving policemen — so far unidentified, but including a brigadier and "several colonels and majors" — had written to the commission putting out feelers about asking for amnesty for 20 crimes in the 1980s and early 1990s.

The letter, compiled by lawyer Johan Wagener, who recently resigned as state attorney, reportedly specifies crimes including the bombing of Khotso House in Johannesburg and other bombings, the murder of the "Pebco three", cross-border raids, and the murders of Jeffrey Sibiya Bophu, Brian Nqulunga, Beki Mlangeni and Jackson Maake. Wagener delivered a copy to D'Oliveira last Friday.

Former police commissioner Johann van der Merwe this week confirmed he and other ex-generals sup-

ported the approach and would accept collective responsibility where applicable. He said the generals would also consider individual amnesty applications "if information from [one of Wagener's] clients implicates them".

President Nelson Mandela this week hailed the group's approach to the truth commission, and it has been widely described as the commission's first major breakthrough in its attempts to lure former security force operatives to confess sins of the past.

But a senior Justice Department official said this week it seemed amnesty was only being sought for crimes where security operatives knew they were likely to be caught: "These guys saw their impending arrests and tried to forestall it. It is a cheap shot ... But they are underestimating the attorney general's office."

He pointed out that changes had been made to truth commission legislation late last year, at D'Oliveira's initiative, to regulate the relationship between the attorney general and the commission. As a result, the commission cannot take on cases already under investigation unless the attorney general agrees.

The official said D'Oliveira "has said he is not going to hand over these files", and prosecutions on the more important cases would go ahead. Once perpetrators had been found guilty, they would still be free to approach the commission for amnesty.

What remains unclear is how the 22 knew many of them were under investigation. The official said they could have "deduced" this from the actions of the investigating team, but said it could also have been a "mole" or "careless talk" by a member of the attorney general's office.

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CHANTING MOB SURROUNDS BUSINESSMAN'S HOME

Vigilante Plot to Kill Justice Minister

A PLOT TO KILL Justice Minister Mr Dullah Omar is under investigation by the government's intelligence services after death threats from an extremist, anti-drugs vigilante group. Omar, who takes cabinet responsibility for the intelligence services, refused to elaborate on the death threats, but one of his officials said the matter was "viewed very seriously". **HENRY LUDSKI and BENNY GOOL** report.

(252) CT 29/7/96

Fears are growing for the safety of Justice Minister Mr Dullah Omar after renewed death threats by an extremist anti-drugs vigilante group.

This follows an attack on a house in Manenberg and on prominent Cape Town businessman Mr Abdurazak Osman on Thursday by balcony-clad men. Indications last night were that a plot to kill Omar is under way, but one of his officials said the government would not comment on the matter.

An intelligence source confirmed a report has been compiled on the death threats against the minister. Omar was originally given until July 11 to respond to the group's

demand to act against drug dealers, but a new ultimatum is now set for some time in August, according to the source.

"I am aware of the plan," Omar told the Cape Times yesterday when approached for comment at his Athlone home, which is under constant police guard.

Omar, who takes cabinet responsibility for the intelligence services, refused to elaborate on the death threats, but one of his officials said the matter was "viewed very seriously".

In March this year Omar's home was invaded by members of a Muslim extremist group after he had received death threats. The same vigilante group is said to be behind an ultimatum to



UNDER THREAT: Dullah Omar

Omar, demanding him to crack down more heavily on gangsters

and drug dealers.

Western Cape Anti-Crime Forum spokesperson, Mr Irvin Kinnes, said the vigilante group was behind the slogan — 11 July People's Justice — painted on walls near Omar's home in Rylands Estate.

"We are disappointed by the approach and actions of the group, because this is not the kind of justice that we want," he said.

Kinnes confirmed the Anti-Crime Forum was attempting to set up a meeting with the Cape Flats group, who have listed the reinstatement of the death penalty among their demands.

"They have said that if the death penalty is not reinstated they will take action," said Kinnes. The vigilante group are actively seeking out the ringleaders of Cape Town's drug trade as part of their crusade to put an end to drug trafficking in the city.

They are also believed to be behind recent attacks on individuals who they have branded as peo-

ple with alleged links to the drug trade.

A group of about 300 people reportedly attacked the home of an alleged drug dealer in Manenberg last Thursday.

A doctor who treated Osman for shock shortly after the other incident, said the attack took place after about 200 chanting people congregated outside his home in College Road, Rylands, shouting "death to the peddlers".

The doctor said a relative of Osman had to receive surgical treatment after he was assaulted by members of the group.

Sources close to the Osman family said the attack follows false rumours about the family's involvement in drug trafficking. Family members attacked last night refused to comment on the incident.

After the attack on Omar's home earlier this year, police stepped up security by increasing the police presence around his property.

TRC staff 'suffering burn-out'

(252) CT 29/7/96
ROGER FRIEDMAN

FIFTEEN weeks into its frenetic calendar of public hearings, the Truth and Reconciliation Commission was showing signs of fatigue in Soweto last week, with Gauteng-based commissioners acknowledging that they had perhaps bitten off more than they could chew.

The Soweto hearing of the commission's Human Rights Violations Committee — incorporating a two-day "event hearing" looking at the June 16, 1976, student insurrection — failed to arouse any interest in the battle-hardened local community. Virtually nobody turned up.

Ironically, more white people attended the Soweto hearing than elsewhere. No local schools brought their pupils, and at no time was the venue more than one-third full.

Commissioners suggested the reason was the tightness of the hearings diary and the effect it was having on the performance of commission staff.

Human Rights Violations Committee member Mr Hugh Lewin said, the Gauteng region would have to consider either hiring more staff or holding fewer hearings. Extra staff would cost extra money, but fewer hearings meant the commission would reach fewer South Africans.

Commissioner Ms Yasmin Sooka said she felt Gauteng had been over-ambitious in holding three consecutive hearings in Mmabatho, Pietersburg and Soweto. The problem was not running the hearings

but preparing for them.

Sooka said many of the commission's staff were suffering burn-out. "The reality is that the people who bear the brunt of preparations for the

hearings are the staff (as distinct from commissioners and committee members)"

Lewin said staff were resigning in numbers.

Sooka described the commission's communication and media campaign in Soweto as a disaster.

"Quite frankly I think we have to take the blame for the fact that communications and media were very bad. I don't think we have done our work effectively enough. Obviously we have not got it right, and hence the low turnout."

She mentioned that the Johannesburg hearing of two months ago had also suffered low-attendance.

Sooka said the hearing had clarified many questions about the ideology that shaped the June 16 uprising.

● The Human Rights Violations Committee is not sitting this week, but the Committee on Amnesty will hear applications in Mdantsane, outside East London.



ARG 29/7/96

Omar offer

prompts

W Cape

prosecutors
to suspend
work-to-rule

Staff Reporter

WESTERN Cape prosecutors have voted overwhelmingly to suspend their three-week-old work-to-rule campaign and magistrates' courts in the province will run normally from today.

Their decision was taken at a mass meeting in Paarl on Saturday.

It was a direct result of Justice Minister Dullah Omar's offer to improve their lot, said Faiek Davids, spokesman for the Western Cape Prosecutors' Association.

Prosecutors have refused to work overtime or to prepare for cases outside normal working hours, causing huge delays in a justice system that is already under tremendous pressure.

They demanded better pay to match recent increases for magistrates, and for prosecutors to be independent of the civil service.

Mr Davids said Mr Omar's commitment to de-linking prosecutors from the civil service as soon as possible was welcomed.

As far as Western Cape prosecutors were concerned, the campaign was now over and courts would run normally from today.

Mr Omar's proposals allowed for de-linking of prosecutors and a 10 per cent increase in overtime pay and "other possible measures to improve (their) position".

State attorney groups now want increase

(252)

BY HELEN GRANGE

Star 30/9/96

Prosecutors and state advocates have ended their work-to-rule protest, but a new crisis looms in the country's courts as state attorneys threaten similar action.

An overwhelming vote by prosecutors in the Western Cape at the weekend to suspend the action in view of Justice Minister Dullah Omar's salary proposals has had a ripple effect throughout the country, Blackie Swart, chairman of the Prosecutors' Association of SA, said yesterday.

"The three-week protest has caused case backlogs in a number of magistrates' courts, but prosecutors have indicated they will make a concerted effort to get things back to normal," he said.

Swart added that Omar had made acceptable proposals, and had committed himself to time-frames for drafting new legislation providing for better salaries and overtime allowances.

Omar's proposals allow for the de-linking of prosecutors and state advocates from the civil service, the filling of vacancies, overtime payment and other measures to improve their position.

He has also undertaken to have draft legislation prepared by August 31, so it can be tabled during the next parliamentary session.

Extra funds will also need to be approved by Cabinet to cater for the upgrading measures.

Swart said prosecutors and state advocates, if the plan is approved, would probably have their salaries de-linked from the rest of the public service by the beginning of next year.

Faiek Davids, spokesman for the Western Cape Prosecutors' Association, said yesterday the decision to suspend the work-to-rule campaign "indicates the goodwill shown towards the minister and his initiatives, and the department is assured of prosecutors' commitment to ensure the effective and proper dispensing of justice, given the present constraints".

He added that the commitment of the minister to strive for parity with magistrates' remuneration packages was an indication that prosecutors were underpaid.

However, the Association of State Attorneys (ASA) has made a veiled threat to embark on a work-to-rule if the outcome of a meeting with Omar on August 6 to discuss similar grievances was unsatisfactory.

Protest action cannot be excluded, but would largely depend on the outcome of the meeting and whether the minister was prepared to commit himself to addressing certain issues immediately, an ASA statement said.

As state attorneys were members of the side bar, the various law societies would be consulted before a final decision was taken, ASA said.

TRC dilemma in granting amnesty

By Mzimasi Ngudle

THE Truth and Reconciliation Commission's amnesty committee heard two categories of testimony when it sat in Mookeng in the Free State last week.

The first category of amnesty applicants claimed it believed it was murdering or killing in pursuit of a political objective. The difficulty with their testimony was distinguishing between pure crime (untainted by political persuasion) and political crime (a requirement for granting amnesty).

Amnesty committee chairman Judge Hassan Mall was obviously faced with this difficulty when he threw out the application of prominent civic leader TE Motalosi, who was convicted of robbery.

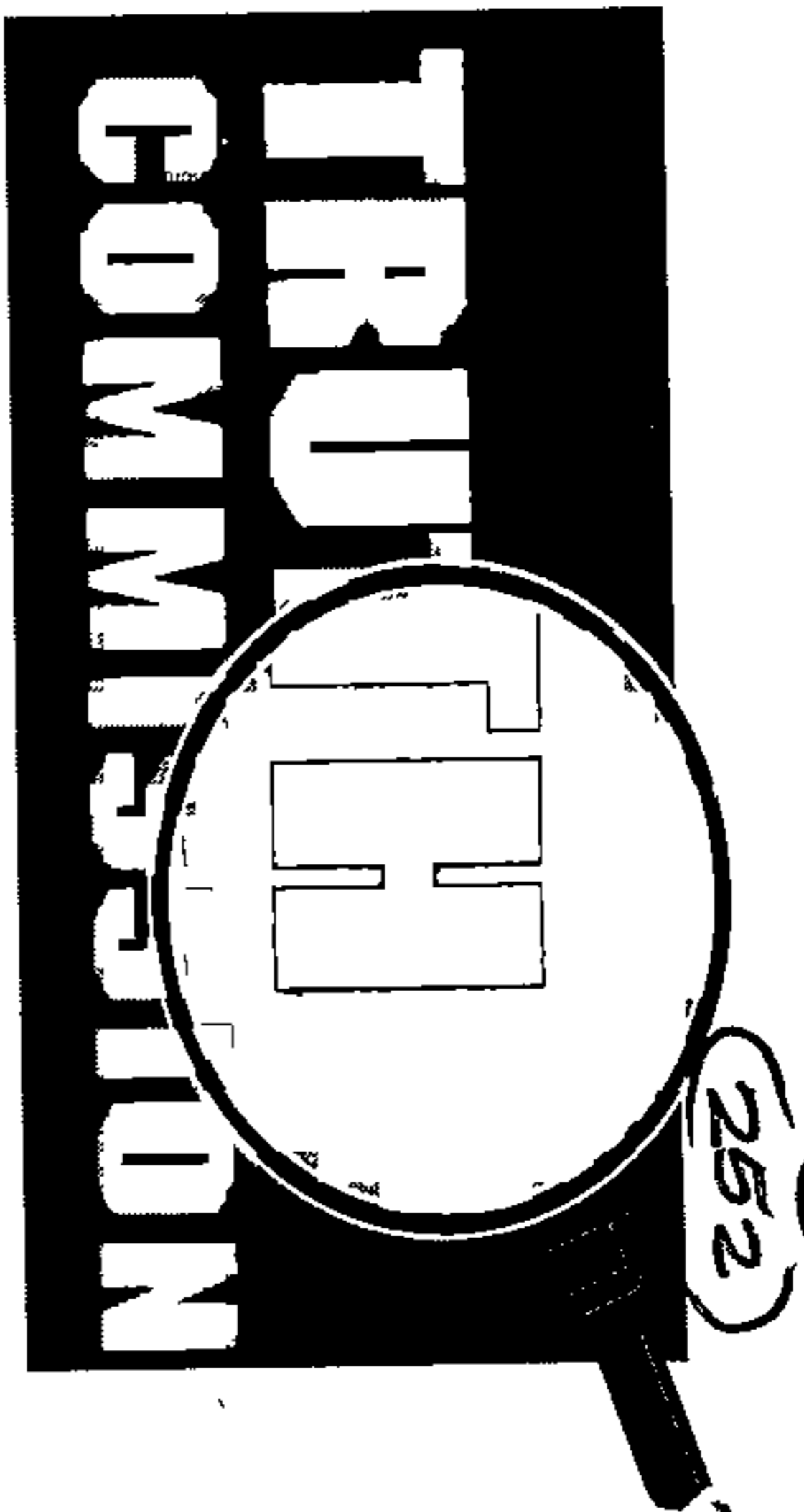
Amnesty laws

Mall said Motalosi's application did not comply with the requirements of the amnesty laws.

Into this category also falls the testimony of African National Congress Youth League member Thamsanqa Jackson, who shot dead policeman Oupa Dithube in 1992.

In closing argument TRC lawyer Advocate Cocky Mpshe asked the committee to reject Jackson's evidence that he was protecting the community when he killed the policeman.

Murder convict and amnesty applicant Justice Segopa (31) said he joined the grisly attack on three white men



and a white woman in response to a call by local residents who screamed "Inkatha, Inkatha! Let's kill them!"

Segopa, an ANC member, said the attack occurred four days after a local community leader had warned residents at a rally about an attack by Inkatha.

Under cross-examination he had difficulty linking the victims to Inkatha. Monare Morkabi and Mandlakapheli Dlamini who, like Segopa, were sentenced to 25 years in jail for the murders, withdrew their amnesty applications. No reasons were given.

In a letter to the committee Free State attorney general Advocate MT van der Merwe, SC, said trial evidence as well as the appellate judgment showed there could be no suggestion of a political motive in their crimes.

ANC member Molefe Tshukudu, giving evidence about his psychological state when he stabbed Hendrik van der Merwe to death, said he saw an apartheid victim when he met a white man

and decided "to kill it".

"Except for white policemen, it was my first time seeing a white man in the township. I am really sorry I am asking his family to forgive me. I did it for political reasons," he said.

Collective decisions

The second category testified about collective political decisions which impelled them to wipe out their opponents. In their amnesty applications they claimed they had been acting under the ANC's command.

It is this group, *Sowetan* has learned, that stands a better chance of being granted amnesty when the committee decides in a week or two who will be granted amnesty from more than 2,000 applications received so far. If this group are ANC members who testified how they routed out members of the notorious Three Million Gang which terrorised Mookeng. The gang was a group of *dagga-*

smoking youths who, in 1987, robbed shebeens, raped patrons and killed residents indiscriminately. In 1989 workers from a milling company ended the gang's activities.

Local ANC structures then embraced the youths in keeping with the organisation's policy of reforming marginalised youths. This is how gang leader George Ramasimong found his way into the local ANC branch.

In 1990, according to testimony, Ramasimong fell out with the organisation after finding out that ANC activist George Daniels was allegedly in love with his wife.

He returned to his old ways. It was at this moment that an otherwise apolitical problem was politicised. The police "used Ramasimong extensively in their fight against ANC activists," it is alleged that the white judiciary, the police and the gang were in collusion - hence the loss of faith in the legal system and the decision to resort to the law of the jungle.

In his testimony Ramasimong's killer, Roland Petrus, said he decided to murder Ramasimong after a self-defence unit meeting instructed everybody to remove him from society.

Petrus said Ramasimong, who allegedly killed 102 people, was never arrested for the murders. Instead, he sought refuge in the local prosecutor's home and was constantly ferried in police vehicles.

To loud applause from the audience, Petrus said he did not trust the

police, magistrate or prosecutor because they seemed to be in collusion with the killer.

Another amnesty applicant, Petrus Machabe Thulo, said he killed gang member Masusu Niema under ANC orders. Asked what political objective he sought to achieve, Thulo said Niema was a threat to the community of Mookeng.

Self-defence

Thulo said he was a member of a self-defence unit that killed between 20 and 25 members of the original 30 gang members.

Another applicant, Ancy member Paseka Mpondo, said Thulo ordered or approved his killing of gang member Tsietso Leboko. Mpondo said he killed Leboko when Leboko had tried to lure him to a desolate spot to be killed by gangsters.

Petrus, Thulo and Mpondo are serving 14, 10 and eight years, respectively, in jail for the murders.

Senator Dennis Bloem, who was then a prominent local ANC leader, said he was aware that Petrus wanted to kill Ramasimong when they drove to a local taxi rank where Petrus shot Ramasimong dead in 1992.

"I must make it clear that no disciplined member of the ANC would give an instruction to kill a person. But I knew what he was planning to do. I tried to persuade him not to kill Ramasimong, but he insisted on carrying out his instructions from the community."

State attorneys threaten to ~~to~~ (252) work by rule

CT 30/7/96
PROSECUTORS and state advocates have ended their work-to-rule protest, but state attorneys are now threatening similar action.

An overwhelming vote by Western Cape prosecutors at the weekend to suspend the action in view of Justice Minister Mr Dullah Omar's salary proposals has had a ripple effect country-wide, Prosecutors Association of SA chairman Mr Blackie Swart said yesterday.

Omar's proposals allow for separating prosecutors and state advocates from the civil service, the filling of vacancies, overtime payment and other measures to improve their position.

He has also undertaken to have draft legislation prepared by August 31, to be tabled during the next Parliamentary session.

However, the Association of State Attorneys has made a veiled threat to embark on a work-to-rule if the outcome of a meeting with Omar on August 6 to discuss similar grievances is unsatisfactory. —
Special Correspondent

COURT OFFICIALS UNDER SCRUTINY

Assessor is fraud suspect

JUSTICE MINISTER Dullah Omar says the community-based lay assessor system "will help to get people to move away from taking the law into their own hands and from applying their own law — violence". **JACKIE CAMERON** reports.

A MITCHELLS Plain lay assessor has been arrested in connection with a fraud involving thousands of rands set aside to pay colleagues

Mr David Valentine, of Tafelsig, one of 24 lay assessors at the Mitchells Plain Magistrate's Court, was arrested in connection with fraud earlier this month and has appeared in court after an investigation into irregularities involving the payment of officials.

The court is also at the centre of a police investigation into officials who ensure that dockets "disappear" for a fee

This emerged yesterday after a weekend report in which Justice Minister of Justice Mr Dullah Omar advocated the lay assessor system, which he initiated. Lay assessors, who are nominated by community organisations, preside over a trial with a magistrate

They wield enormous influence

over decisions on convictions and community-based sentences. If two assessors disagree with the magistrate's finding, based on the facts of the case, their decision — and not that of the magistrate — will stand

At the weekend, Omar said the existence of structures like this would "empower communities to deal not only with law-and-order issues but with issues relating to reconstruction and development"

He also said community initiatives "will help to get people to move away from taking the law into their own hands and from applying their own law — violence"

Omar said that when the pilot projects were first introduced at courts "there was some opposition to this, particularly among those who think along traditional lines"

"Of course, a degree of training is necessary but, fundamentally, the idea is to bring communities

and courts closer to each other"

Omar said the "problem" with the system was that some people regarded such positions as employment. Lay assessors get about R20 an hour

This month's arrest of the Mitchells Plain lay assessor, who is also a Justice of the Peace, has highlighted the need for the cautious screening of candidates to these powerful positions

A working document has been handed to Omar for the drafting of the "concept bill" on assessors and regulating the system, Cape Town's acting chief magistrate, Mr Blackie Swart, said yesterday

Assessor Valentine was arrested in connection with fraud and has appeared in court this month, Mitchells Plain acting chief magistrate Mr Johan van Rensburg confirmed

He said Valentine had been suspended from his duties as a result of an investigation into irregularities involving payment of officials

No charges were put to Valentine. He was released on his own recognisances and is expected to appear in court again early next

month, Van Rensburg said.

Van Rensburg also confirmed that people might be arrested soon in connection with investigations into alleged crimes involving court officials

Lay assessors were nominated by community organisations for posts, and decisions on appointments were made by committees made up of community representatives working in each court's jurisdiction

"We do have a way of sorting things out when dealing with applications. We try to prevent bad eggs from coming into the system. There is an inherent risk in the system that people from the community may be more open to outside influences," Van Rensburg said

He said no checks were done to find out whether applicants had criminal records, for example

Swart said the community lay assessor programme had been favourably received by most magistrates and that it had improved the image of the justice system within the community

"I think it is a very good system. It is more transparent. All our assessors are very enthusiastic," he said

CT 30/7/96 (252)

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Hearing told of Sebe's rule of fear and corruption in Ciskei

No one could touch him — he detained men for personal things such as arguments over girlfriends (252) A/C 30/9/96

KWANNE Sebe, son of the former Ciskei dictator, was one of the most feared men in the former homeland and had men detained under Section 26 of the Terrorism Act because of disputes over girlfriends, the amnesty committee has heard.

Sebe's former second-in-command, Zandisile Ngwanya, was giving evidence yesterday at a hearing of the Truth Commission's amnesty committee.

Sebe, who was head of the Ciskei police's feared Elite Unit, is serving a 21-year jail sentence for ordering bomb attacks on a Keiskammahoek bottleshop and a partially-built house in Peddie.

Mr Ngwanya was co-owner of the bottleshop and owner of the house. The attacks happened in May 1989 and December 1989 respectively.

At his first trial, the judge found that Sebe had acted out of personal vengeance against Mr Ngwanya.

At the trial for the second attack a co-accused told the court Sebe had instructed him to bomb the house because Mr Ngwanya had said "silly things" in a court case about the death of Ciskei police custody in July 1987 of Eric Mntonga, regional co-director of the Institute for a Democratic Alternative in South Africa (Idasa).

Sebe was convicted on charges of malicious damage to property in 1990 and is serving his sentence in Middledrift Central Prison in the Eastern Cape.

Testifying before about 100 people in the City Hall, Sebe told the amnesty committee that the bombings had been political acts aimed at defeating his father's Ciskei government against attempts to overthrow it.

The acts were also aimed at liso Lomzi (Eye of the Nation), Sebe said this organisation,



LEGAL ASIDE: Advocate Vwe Noishe and Kwane Sebe, son of former Ciskei dictator Lennox Sebe, confer during Mr Sebe's amnesty hearing at a Truth Commission sitting in East London yesterday

headed by his uncle and former Ciskei security chief Charles Sebe, who was later shot dead in a bid to oust the military government of Oupa Gqozo, had been set up as part of Operation Katzen, an action by the SA Defence Force's Military Intelligence unit.

He said Mr Ngwanya and his business partner and co-owner of the bottleshop, Phikile Galya, were supporters of liso Lomzi and had used the bottleshop to

launder the organisation's funds. Mr Galya was secretary-general in the office of President Sebe.

Sebe said the house at Peddie was a safe house and that the bombings had been a warning that the security forces "administrative aspects".

"The applicant (Sebe) had a tendency for detaining people without any reason.

"He also had a tendency for mistusing the government's money," he said.

His attitude was negative and I had to report this matter to the former president, his father."

Mr Ngwanya said Sebe had committed "very irregular acts" such as detaining men under the Terrorism Act for "mere personal things" such as arguments over girlfriends.



JOHN YELD reports from East London

Chairman steps down

THE chairman of the Truth and Reconciliation Commission's amnesty committee, Mr Justice Hassen Mall, recused himself from an amnesty hearing today involving Mdantsane residents who necklaced four alleged gang members.

Judge Mall, when he was an advocate, appeared for the men at their trial.

The 12 applicants, aged between 27 and 48, are serving jail terms ranging from 10 to 23 years.

They were convicted in the Supreme Court, Bisho, in June 1989 of murdering four alleged members of the Killer Boys gang in Mdantsane in February 1987.

The deputy chairman of the amnesty committee, Mr Justice Andrew Wilson, took the chair at the beginning of the application hearing.

He announced that Judge Mall had recused himself because he had appeared for the men during their trial.

The applicants have declared in their amnesty application forms that they are members or supporters of the African National Congress.

Ngwanya raises question of president's son's role in death of Idasa activist

THE amnesty application by former Ciskei security police chief Kwane Sebe is in connection with him ordering two bomb attacks in 1989, but it is the death of Eric Mntonga at the hands of Sebe's men that hangs heavy over proceedings.

Mr Mntonga was regional co-director of the Institute for a Democratic Alternative in South Africa (Idasa).

His body was found in his car on a remote road between Peddie and King William's Town on July 25 1987.

He was killed just days after delegates returned from talks in Dakar, Senegal — co-organised by Idasa — between academics and the banned African National Congress.

Mr Mntonga had a stab wound in the heart, but a private pathologist determined this had been inflicted after his death, caused by a blow to the head.

There were also bruises on his body consistent with beating and he had been strangled.

Eight Ciskei security policemen, including Sebe's second-in-command, Zandisile Ngwanya, were later convicted in connection with Mr Mntonga's death on charges ranging from murder with extenuating circumstances to culpable homicide, perjury and defeating the ends of justice.

They were sentenced to various terms of imprisonment, the maximum an effective 12 years.

Mr Ngwanya served two years in jail for defeating the ends of justice.

Evidence in the court cases was that Mr Mntonga was murdered in the Mdantsane offices of the Ciskeian security police on July 24 after being severely assaulted.

He had a plastic bag put over his head and was suffocated with rubber tubing.

The policeman's convictions followed a letter sent by Alex Boraine, then Idasa executive director and now deputy chairman of the Truth Commission, to President Lennox Sebe, Kwane Sebe and the Chief Jus-

tice of Ciskei, detailing "names and activities" relating to Mr Mntonga's death.

This information was supplied by a highly-placed Ciskeian source whose identity was kept secret by Idasa.

At the amnesty hearing yesterday, testimony was that Dr Boraine's letter had specifically excluded Kwane Sebe from any involvement in the murder.

But during his trial Mr Ngwanya had asked why Sebe had not been questioned about the death.

Yesterday the committee was told these remarks had fuelled tension between the two policemen.

Yesterday, Mr Ngwanya explained that while he had not directly accused Sebe of involvement in Mr Mntonga's murder, he (Sebe) had been head of their office and as such had been implicated.

Mr Ngwanya said "My advocate wanted to call Sebe, but the judge refused. The judge said 'Do you believe that the only surviving son of the president would do something that would embarrass the state?' I said 'Yes'."



RIGHT-HAND MAN: Zandisile Ngwanya, Kwane Sebe's second-in-command gives evidence before the Truth Commission hearing

All legal personnel in govt 'angry over pay'

(252)
Susan Russell

BD 30/7/96
IT WOULD be a major blunder for Justice Minister Dullah Omar to separate state advocates and prosecutors from the public service when it included a broad spectrum of other legal personnel equally unhappy with their salaries, Public Service Association GM Caspar van Rensburg warned yesterday.

He said legal personnel occurred in some 15 occupational classes.

"All these members of the legal profession experience the same salary problems and are equally unhappy about the salary differences created by the minister with the dispensation for magistrates," he said.

If disengagement from the public service was possible and it led to a better bargaining basis

for the legal fraternity then it should be done for all legal personnel.

Van Rensburg said that if the minister dealt with the question of disengagement unilaterally, instead of in a holistic manner, dissatisfaction would spread to other legal personnel. However, he doubted whether disengagement would give legal personnel a better bargaining position.

He rejected claims by the Public Prosecutors' Association that the association had handled their salary negotiations ineffectively. The agreement had been reached with the full mandate of the association.

"It is high time that the committee of the Prosecutor's Association should itself accept responsibility for the decision and inform its members accordingly."

Advocates end work-to-rule and prosecutors may follow

STATE advocates have ended their countrywide work-to-rule action and prosecutors yesterday appeared set to follow suit.

But state attorneys may embark on similar protest action if they are not satisfied with their meeting with Justice Minister Dullah Omar next week.

Association of State Attorneys secretary Stuart Chambers said the organisation would meet Omar on August 6 to discuss their grievances.

"No decision has been taken on work-to-rule or other industrial action," he said, "but this has not been ruled out in future."

Prosecutors' Association of SA chairman Blackie Swart said the organisation was still expecting a response from Omar's office on sugges-

tions it made on Friday.

The association had "fine-tuned" the department's earlier proposals on alleviating problems with prosecutors' salaries, Swart said, and was confident of a positive reply.

He said the department's proposals did not represent a firm offer and were subject to the allocation of funds by Cabinet or approval by the Public Service Commission.

He was confident the association's proposals would be acceptable to prosecutors in the short term.

Swart said that Omar had agreed to a time frame to delink the prosecutors from the public service.

"It is a positive step for us to work for By the time the legislation (providing for the delinking) is tabled before Parliament, the

prosecutors will be organised to handle their own management."

Swart said the work-to-rule would continue until a final agreement was reached, but Western Cape prosecutors on Monday decided to suspend the action until August 31.

Swart admitted that the work-to-rule action, which started on July 8, had caused a backlog of court cases, especially in cities.

"We have created it and we will do our utmost to work it down as soon as we can," he said.

The Society of State Advocates said its members would end protest action, despite the fact that negotiations with the justice department for interim relief had been a futile exercise, won in the end by crime and criminals.

"We, the state advocates, the de-

partment of justice and society at large, are the losers," it said.

On its earlier work to rule protest, the society said too many professional hours had already been wasted.

"We do not wish to be perceived to support anarchy. As we are dedicated legal professionals, we find the very idea of possibly contributing to the further crippling of the justice system repugnant."

The apparently unfair labour practices which the department had committed would be discussed within the department's bargaining chamber.

However, the society appreciated Justice Minister Dulla Omar's commitment to delinkage, parity and the general improvement of state advocates' and prosecutors' positions. —Sapa.

PUBLIC SECTOR - GOVT. - JUSTICE

1996

AUGUST.

SA youths 'scarred' by apartheid

JOSEPH ARANES
on the Truth Commission

A LARGE proportion of South Africa's youth were never really young nor enjoyed the pleasures of growing up because of their involvement in the struggle against apartheid, said Alex Boraine, deputy chairman of the Truth and Reconciliation Commission.

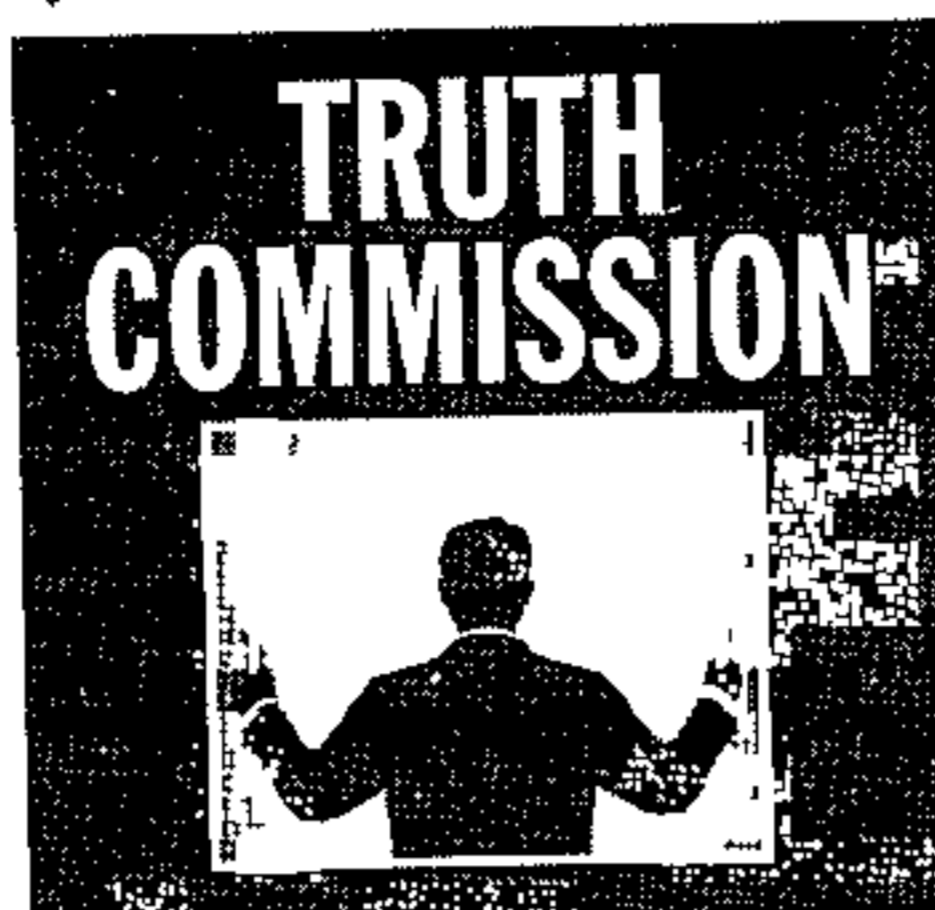
Speaking during the commission's human rights violations hearings at the University of the Western Cape where chilling accounts were heard of torture and police brutality against Bonteheuwel teenagers during the mid 1980s, Dr

Boraine said they experienced so much that was bad that they never really lived.

"It is difficult to know how to respond to young people who were so hurt whose bodies and souls are scarred, because it is going to take a while before they are healed."

Earlier Muhammad Ferhelst, Colin de Souza and the sisters of slain Umkhonto we Sizwe (MK) soldier Ashley Kriel told the commission how they, like many other young people, engaged the police on the streets and how the township became a virtual war zone.

Mr Ferhelst said he became involved in politics while he



was still a pupil in 1985.

"Not long after that, the police were searching for me and I was forced to sleep in different places and often went without food for days. I was young and was afraid

"I did not know what to do and had nobody to turn to. We formed an organisation, the Bonteheuwel Military Wing (BMW), to protect ourselves from the police because they were shooting us on sight.

"MK cadres trained and armed us and taught us to form defence units."

He was arrested in 1987 and detained under Section 29 of the old Internal Security Act.

"They tied a belt around my neck and beat me with their fists if I could not answer their questions. A Captain Van Bragel threatened me and continued to beat me.

"One day they told me I was

free to go. I was too weak to get out of their car and knew if I ran they would shoot and kill me. They took me back to Brackenfell police station where they kept me for at least another month before locking me up at Victor Verster prison.

"By this time I was like a bomb waiting to explode. I still have a lot of hatred inside of me and don't know what will happen if I do explode one day," Mr Ferhelst said.

BMW cadre Mr De Souza told the hearing he was first arrested when he was 15 and faced more than 300 charges.

"For two weeks Captain Van Bragel and Sergeant Pikker

interrogated me.

"They undressed me and threw me into a cell which was full of water and sprayed tear gas into it. They then chained me to the metal cell door and kicked and beat me and pulled my hair wanting answers to their questions."

"I was so seriously affected by the torture that my hair started falling out and I still have psychological treatment."

His mother, Dorothy de Souza, said that what police had done had broken up the family "and scarred not only us but our future generations who will be affected by this psychological trauma."

Mother's grim task after son shot in riots

JOHN YELD
on the Truth Commission

THE mother of one of the first Cape pupils shot dead by police during the 1976 student riots was later forced to wash pieces of his brain and skull from his school jersey, the Truth Commission has been told.

Rebecca Truter, who was a nurse at an old-age home at the time, told the commission's human rights violations committee hearing at the University of the Western Cape yesterday that her 15-year-old son Christopher had been an inquisitive but cautious child. The Standard 8 pupil at Bonteheuwel High School had been shot while on his way to the school to pick up his books which had been scattered by other pupils the previous day.

She had been told he had stopped along the way at Arcadia High School where a large group had been singing and protesting. "He was very curious to know what was happening but was also quite timid. He wasn't involved. He was just excited when people marched and sang, and he wanted to see what was going on," she said.

When police fired at the crowd, he had tried to escape by climbing through a hole in the fence, but was shot in the back of the head. He died in hospital six days later.

At an inquest, a Captain Albert Voskuil had admitted shooting Christopher but had claimed it was an accident as

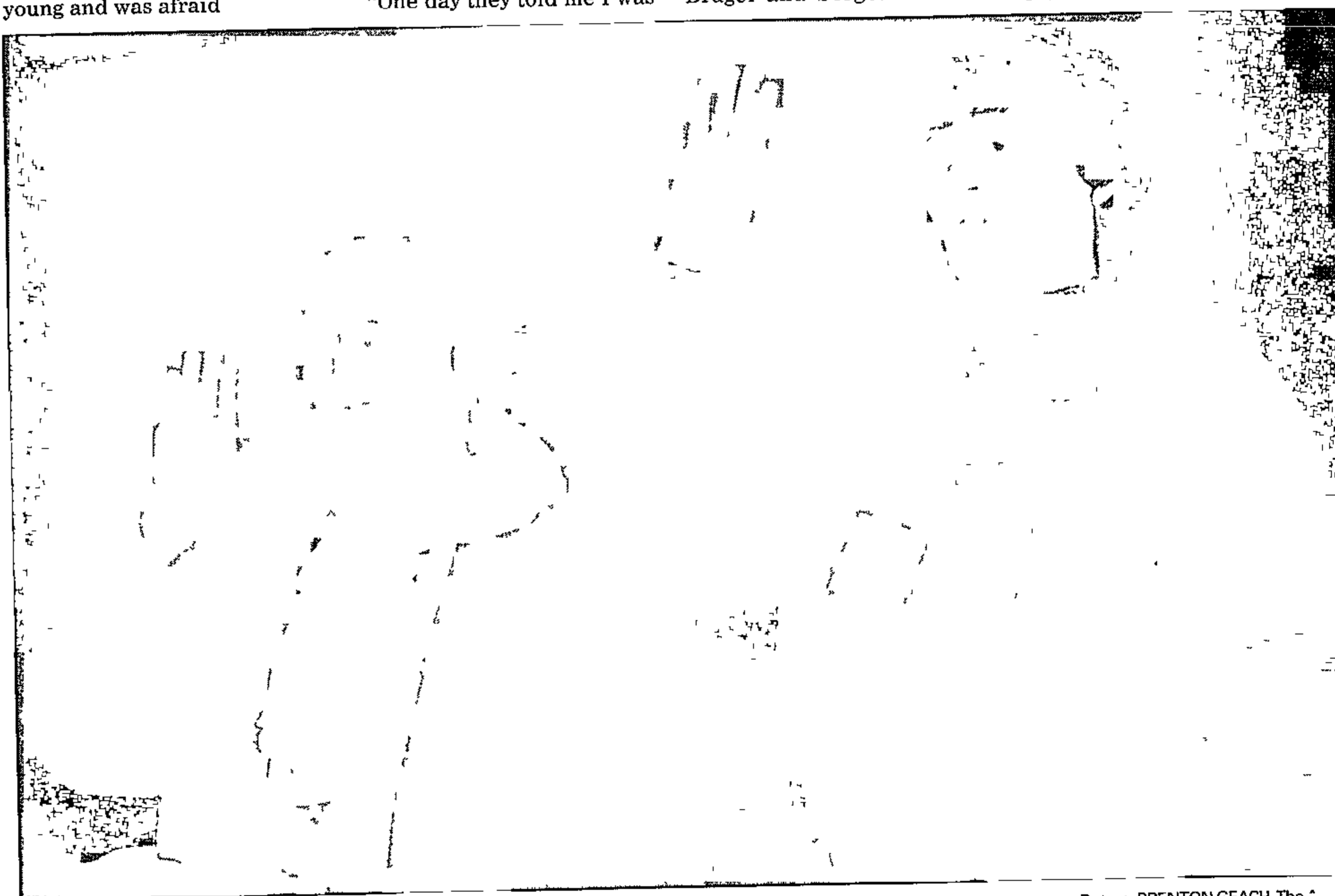
he had shot into the air, Mrs Truter said. "I was very unhappy because we weren't told anything (at the inquest). I don't think it was a mistake because if he had shot in the air, how could he have shot him in the back of the head?" When she saw Christopher in hospital, she had been so badly affected she had to be sedated.

"He had a big lump on one side of his head and I screamed so much. His school top was so full of pieces of brains and pieces of bones, I had to run it under the tap and soak the thing."

"Each and every day I still think of him. He was my baby, although he was 15 years old. It's so sad, his death affected us very badly."

Christopher's sister Sarah Petersen testified that she had found him lying injured on a field, and had waited with him for an ambulance which took 30 minutes to arrive. She broke down and sobbed as she recalled the trip to hospital in the ambulance. "He said to me 'Mamma' because he thought my mother was in the ambulance, and I said 'Yes, my child'." Truth Commission deputy chairman Alex Boraine told Mrs Truter that the death of a child was "particularly painful and tragic."

"In South Africa, many people paid a very high price and among those were children, at school, in the first flower of their lives, and they were cut down," Dr Boraine said.



Picture BRENTON GEACH, The Argus

SO HELP US GOD: Rebecca Truter and her daughter Sarah Petersen take the oath at the Truth Commission hearing at UWC before telling the commission how Christopher Truter was shot and killed during the 1976 uprisings in Bonteheuwel.

'Old cadre' wants to ensure peace

VEREENIGING - A prominent Boipatong activist, whose wife, daughter and grandson were murdered by men with AK47 rifles, on Tuesday described third-force activity in the Vaal Triangle to the Truth and Reconciliation Commission.

Ernest Sotsu told the commission's human rights violations committee in Sebokeng. "I am prepared to go out as an old cadre." He wanted to ensure peace on condition perpetra-

tors of violence confessed.

Mr Sotsu alleged police and IFP members colluded in fueling township violence.

He said he was involved in the rent boycott and campaigns against local authorities in the Vaal Triangle in the 1980s.

While attending the ANC's first national conference since its unbanning in Durban in July 1991, his wife Constance, daughter Margaret and 2-year-old grandson Sabata were shot

dead at their home on July 3.

Two of his grandsons survived and were able to identify one of the attackers as Victor Khetisi Kheswa, known to township residents as "The Vaal Monster".

Mr Sotsu told the committee Kheswa was always seen in the company of police, especially on the scene of violent conflict.

Kheswa was arrested and charged with the murder of Sotsu's family but died in police

custody.

Sotsu said he was convinced Kheswa's death was at the hands of police, who did not want to be implicated in the force activities in the area.

On whether ANC self-defence units were not also to blame for the endemic violence in Vaal Triangle townships between 1990 and 1993, Mr Sotsu said some SDUs had been infiltrated by those who "decided to confuse the issue" - Sapa.

Security forces 'did nothing to stop taxi war'

JOSEPH ARANES
on the Truth Commission

THE security forces did not lift a finger to protect the residents of Khayelitsha during the 1991 taxi conflict, the Truth Commission was told at its hearings at the University of the Western Cape.

A resident from the Green Point informal settlement in Khayelitsha yesterday told the commission that people were being assaulted and shot at by warring taxi association members in the presence of the police and army.

The taxi war between the Western Cape Black Taxi Association (Webta) and the Langa, Guguletu, Nyanga Taxi Association (Lagunya) led to major conflict in the township especially during the first two weeks of September, 1991.

Green Point resident Siphwo Manentsa said that during the height of the war, police and army vehicles often formed convoys behind the minibus taxis and just watched as taxi drivers opened fire on residents and onlookers.

"On September 13, a convoy of taxis drove along Lansdowne Road near the squatter camp, shooting at the people. The police were just watching doing nothing to stop them or to pro-

tect us

"Later that evening a house was set alight. I went to inspect it after hearing more gunshots. When I arrived at the scene, somebody shot me in the back of my head. Another bullet scratched the right hand side of my face. I fell to the ground," he said.

Mr Manentsa said he was crying silently and crawled under a broken car to hide himself.

"After a while all the taxis and the army vehicle left and I crawled out from under the car. My neighbours took me to the day hospital and I was later transferred to Groote Schuur Hospital.

"The doctors there transferred me to Conradie Hospital because of my injuries. I was confined to a hospital bed for nine days and just before my release police detectives told me to report the matter at the Khayelitsha (police) station upon my being discharged."

He said he went to the police station but they were not very helpful.

"With the help of the ANC, I managed to give a statement to senior police officers in Cape Town, but to date I have heard nothing about the case."

Mr Manentsa said his wounds had left him with a permanent limp.

Policeman 'felt bad' after shooting

JOHN YELD
on the Truth Commission

A KHAYELITSHA man on his way to a protest rally in October 1990 was shot dead because a policeman thought he might have been carrying a weapon under his long brown jacket, the Truth and Reconciliation Commission has heard in Cape Town.

But Siwanana Ghakatha - known as a "Dlamini" in Xhosa - had nothing under his coat and his death has left his unemployed wife to raise two young children in her shack on her own.

Nolibazisa Chakata told the commission's human rights violations committee hearing yesterday that the policeman responsible for the shooting had "felt bad" afterwards.

He had acknowledged to two of her husband's friends who had been walking with him that he had made a mistake and had apologised to them for the shooting. But he had not contacted her and there had not been any official investigation or inquest, she told the commission.

Truth commissioner Mary Burton noted that Mr Chakatha had died in the wake of protests about an attack on the home of Khayelitsha Civic Association chairman Michael Mapongwana on October 18, 1990 by four men wearing balaclavas. Mr Mapongwana was injured and his wife killed in the attack.

The march a week later in which Mr Chakata died had already resulted in the death of between eight and 10 other people, Mrs Burton noted.

ARC
6/8/96

552

ANC admits killing 'spies' and mutineers

Star 22/8/96

(252)

Mbeki to apologise for organisation's gross human-rights abuses during apartheid era

By JOVIAL RANTAO
Political Correspondent

Deputy President Thabo Mbeki will today acknowledge before the Truth and Reconciliation Commission that the ANC had committed gross human rights violations, including the execution of more than 30 suspected spies at the notorious Quatro camp in Angola.

Mbeki, who will present the ANC's comprehensive submission to a TRC hearing in Cape Town, will offer the ANC's apologies for

"excesses" that occurred during the apartheid era and set out the context in which these occurred.

He will also emphasise the official ANC and Umkhonto weSizwe (MK) policy that prohibited armed action against civilians and stress how wrong it would be to equate apartheid with the resistance against it.

Impeccable ANC sources told The Star Mbeki, in explaining how the suspected agents came to be executed and scores of other cadres detained, would give graphic details of how the ANC

was infiltrated in the 1970s after youths left SA to join the organisation.

The deputy president will give details of how the infiltration of the ANC led to acts of sabotage such as in the Quatro camp being infiltrated by the ANC and how it led to the infiltration on the part of ANC leaders in the 1970s and 1980s. Mbeki will explain the situation faced with the new situation.

► ... To Page 2



SEEN AT THE TRC: Apartheid law and order minister Mr Adriaan Vlok (above) was on the National Party's VIP guest list when party leader Mr FW De Klerk delivered his submission to the Truth and Reconciliation Commission. It is not known whether controversial author Mr Mark Behr, (left) who recently admitted to spying for the state while a student in the 1980s, also made the list, or whether he was just at the Good Hope Centre to listen. Former NP minister Mr Abe Williams, however, was on the list and in the auditorium.

PICTURES, BENNY GOOL

NP 'repentant and willing to admit to past mistakes'

ROGER FRIEDMAN

THE National Party was prepared to admit its many mistakes of the past and was genuinely repentant, said leader Mr FW de Klerk yesterday.

Reconciliation was only possible if repentance was expressed by all sides in the South African conflict of the past, he said.

"It is in this spirit that I want to emphasise that it is not my intention to excuse or gloss over the many unacceptable things that occurred during the period of National Party rule.

"They happened and caused immeasurable pain and suffering to many.

"I should like to express my deepest sympathy with all those on all sides who suffered during the conflict."

But, De Klerk added "The truth is that many incidents, caused by roleplayers from all sides, remain shrouded in a cloud of secrecy.

"Only if those with first-hand knowledge of what happened come to the fore will we be able to establish the truth."

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De Klerk went on to draw a distinction between the "old National Party" and the "new National Party".

"There is a profound difference between the National Party as it is presently constituted and the party that ruled South Africa for the first decades after its election victory in 1948.

"The policies and philosophy of the National Party as it is today are diametrically different from those of the old party."

De Klerk said the latter years were characterised by resistance to transformation from certain elements within the security establishment.

After the submission, he was asked by the commission deputy-chairperson, Dr Alex Boraine, whether he felt the liberation movements were justified in reverting to armed struggle in 1960, after attempting to negotiate with the government since 1912.

"With hindsight, yes," he replied.

"Doors should have been opened which were kept closed in certain cases.

"There was such a period, and yes, it could have been wrong."

LITTLE COMFORT FOR THE GENERALS

Individuals must take blame — FW

FORMER CABINET ministers and security force chiefs should take individual responsibility for their actions and commands, NP leader Mr F W de Klerk told the TRC yesterday. **ROGER FRIEDMAN** reports.

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FORMER president Mr F W de Klerk yesterday exonerated himself, his apartheid cabinet colleagues and the state security council from authorising any incidents of assassination, murder, torture, rape or assault. De Klerk, delivering the National Party's submission to the Truth and Reconciliation Commission, acknowledged his government had authorised the use of some "unconventional counter-strategies" but said these related only to "information gathering, disinformation and assistance to outside organisations opposed to the revolutionary forces".

Although the NP leader said his party was "not shirking its duty toward those who worked with us or served under us", his submission will have proved of little comfort to his former security force generals.

While De Klerk — who said he was representing his party and speaking as a former state president — was prepared to accept overall political responsibility for events which unfolded during the period of his leadership, he was not willing to accept responsibility for specific incidents, occurrences, deeds or transgressions.

He suggested that the commission adopt a set of guidelines to equitably attribute responsibility. The cabinet and state security council should be held responsible for the decisions they took and the instructions they issued, including all authorised actions and operations executed in terms of a reasonable interpretation of such instructions.

Individual ministers should be held responsible for decisions taken in their individual capacity, including all authorised actions and operations executed in

terms of a reasonable interpretation of their instructions.

Security force commanding officers (the generals) should be held responsible on the same basis as the individual ministers.

But earlier, referring to unconventional strategies authorised by his government, De Klerk said he wished to make it clear that to his knowledge "they never included the authorisation of assassination, murder, torture, rape, assault, or the like".

"I have never been part of any decision taken by cabinet, the state security council, or any committee authorising or instructing the commission of such gross violations of human rights. Nor did I individually, directly or indirectly, ever suggest, order or authorise any such action."

"I feel duty-bound to also place on record that the above statement with regard to my

position is also a reflection of the viewpoint of my colleagues who sat with me in cabinet, the state security council or cabinet committees," he said.

And the generals?

Pretoria lawyer Mr Jan Wagener — who has been asked by a number of generals and former police officers to advise them on whether to apply for amnesty — said he had still to study De Klerk's submission and its implications for his clients.

He believed they would find the submission a little disconcerting, as they all claimed to have been carrying out designated duties. "What they did was not sucked from their thumbs, but undertaken in the course of their duties."

Wagener said most of his clients had expected to be indemnified for their actions under a general amnesty.



ANC delegation lifts lid on human rights violations in party

Wyndham Hartley

CAPE TOWN — The ANC's claim that the bombing of Magoo's Bar in Durban and Church Street in Pietermaritzburg were attacks aimed at military targets raises the possibility they were sanctioned at high levels within the organisation.

Deputy President Thabo Mbeki, helped by a large delegation to present his party's submission to the truth commission yesterday, also lifted the lid on the execution by firing squad in ANC camps of members convicted by

military tribunal.

He apologised for excesses which resulted in violation of human rights, but said the situation in the camps was corrected after the abuses were exposed.

The party accepted the Motsepe report's finding that the human rights of a number of people were violated and that senior ANC members such as Jacob Zuma and Joe Modise were involved in this. The recommendation that the ANC apologise was accepted "without qualification". It was charged that many attacks

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on soft targets such as Wimpy Bars and supermarkets, the actions of rogue self-defence units and necklacings blamed on the ANC were the work of state agents in "false flag" operations.

"It was the policy of the ANC, ever since the formation of Umkhonto we Sizwe in 1961, to avoid unnecessary loss of life. The ANC has never permitted random attacks on civilian targets."

Because the Pretoria bomb was placed outside SAAF offices and most of the dead and injured were employed by the SAAF, it qualified as a military

target. Civilians who died were employed by the SAAF and so had "directly associated themselves with apartheid military aggression".

The Magoo's Bar bombing of June 14 1986 was carried out in a time of upheaval which culminated in the declaration of a state of emergency. It was intended to commemorate an attack in Gaborone and the 10th anniversary of the Soweto students' revolt. "The bar was targeted because it was frequented by members of the security forces." The 1985 Amanzimtoti shopping

small bomb blast which killed five people was a departure from the practice of not targeting civilians. The bomb was placed by Andrew Zondo in anger after nine people died in a raid on the ANC in Lesotho, the submission said. A plan to bomb former president PW Botha and his cabinet at a Republic Day celebration in Bloemfontein in 1981 was called off because the car bomb that was to be used would have caused serious civilian casualties.

See Pages 4 and 12

camps

Mandela wants ANC members to speak out

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RESIDENT Mandela has reaffirmed the independence of the Truth and Reconciliation Commission and will encourage all African National Congress members to take part in its activities.

This was revealed by commission deputy chairman Alex Boraine at a media conference after its four-day special hearing in Cape Town, at which all the parties in parliament - except the Inkatha Freedom Party - made presentations.

The IFP will probably make its submission within the next two weeks.

Dr Boraine said he had written to Mr Mandela expressing concern after Deputy Environment Affairs and Tourism Minister Bantu Holomisa had been fired from the cabinet, possibly for having spoken out at a Truth Commission hearing in Port Elizabeth about an alleged R50 000 payment to cabinet minister Stella Sigcau.

Dr Boraine had subsequent-



JOHN YELD reports . . .

ly been invited to a meeting at which Mr Mandela had confirmed his "total commitment" to the work of the commission and to getting as close as possible to the full truth about gross human rights violations.

Mr Mandela had said he would encourage ANC members to testify before the commission without interference, which Dr Boraine said was "very encouraging".

Earlier, Deputy President

Thabo Mbeki made similar remarks to the commission at the end of his submission on behalf of the ANC yesterday.

Asked by commissioner Dennis Polgieter whether there was any restraint on ANC members approaching the commission, Mr Mbeki replied "No, there isn't. And I would say, although this is a guess, the majority (of those testifying at the commission) would be members and supporters of the ANC."

Dr Boraine said the commission would invite a range of people to testify if it believed they could supply missing information, and it would subpoena those who declined.

Asked if this could include former state president P W Botha and former cabinet ministers such as Adriaan Vlok, Dr Boraine replied "We will have no hesitation - our mandate is to get to the truth as far as is humanly possible."

The commission faces a number of difficult issues after this



TOP ECHELON: The ANC's top guns, Mr Walter Sisulu, left, and Deputy President Thabo Mbeki, were among the party's high-powered delegation to the Truth and Reconciliation hearing at the Good Hope Centre.

week's hearings, at which it was presented with conflicting arguments and advice.

The Freedom Front (FF) called for the commission's cut-

off date of December 5, 1993, for acts for which amnesty can be granted, to be extended to May 10, 1994 - the day of Mr Mandela's inauguration.

FF leader Constand Viljoen made a barely disguised acknowledgement that many FF leaders and supporters had been involved in illegal acts between the cut-off date and the election on April 27, 1994, such as being trained in throwing hand-grenades and storing explosives for sabotage.

Unless they were able to apply for amnesty, the FF members would not tell the whole truth for fear of incrimination, General Viljoen said.

Asked for his opinion, Mr Mbeki said there had been pressure on the ANC to change the date on several occasions.

"We don't agree. That date should remain."

This was because of the level of political violence and the fear that if the ANC showed flexibility, it could encourage more political violence.

"But tomorrow is tomorrow. I don't know what will happen tomorrow," Mr Mbeki said.

When Dr Boraine was asked

about the cut-off dates - both the cutoff date for offences for which amnesty could be granted and the date by which amnesty applications have to be submitted to the commission (December 15 this year) - he said the commission was concerned and seeking advice.

"There are many tricky issues involved and the commission has not yet made up its mind."

The commission also got conflicting views on the issues of who should be eligible for amnesty and how the Norgaard Principles - developed in the run-up to Namibian independence as a means of determining whether acts were committed with a legitimate political motive and now enshrined in the Truth Commission Act - should be applied.

National Party leader F W de Klerk made a strong call for a general amnesty for all perpetrators of human rights violations, regardless of the seriousness of their crimes.

He argued that a rigid application of the Norgaard Principles would be unjust, as previous legislation had enabled the granting of amnesty for "abhorrent" crimes, and cited Magoo's Bar bomber Robert McBride as an example of a political offender who would not have received amnesty if the Norgaard Principles had been strictly applied.

But Mr Mbeki said the ANC supported the amnesty provision of the Act and did not want it changed. "It is a way to get the truth told but not to hold Nuremberg trials."

However, it was important for the commission to complete the amnesty process within its lifetime, Mr Mbeki said.

"(This will) ensure that the democratic state is not left with the responsibility of instituting criminal investigations and the possible prosecution of people for actions that took place during the period covered by the mandate of the commission."

Most feel TRC will make things worse – for now

Star 23/8/96

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A recent survey has revealed that most urban adults believe the Truth and Reconciliation Commission is going to make things worse in the short term. Whites, especially, are sceptical of the benefits of the commission's hearings

The nationwide May 1996 poll was conducted by Market Research Africa for a daily newspaper. It showed that six in 10 people – irrespective of race, age, language or income – believed revealing past human-rights violations would make people angrier and increase inter-racial tensions

But according to MRA's managing director Hanna Fourie, this was only a view of the TRC's immediate effect because 47% of the respondents agreed that ultimately it would enable people to live together more easily in the future

Whites, however, were more sceptical of this (52%) than other race groups – Indians 35%, Coloureds 32% and blacks 21%

Northern Province and Mpumalanga residents were most optimistic about the long-term effects of the TRC hearings

More respondents (41%) in the Western Cape, KwaZulu

Natal and Gauteng thought human-rights violators should be prosecuted than those who thought they should be granted amnesty (36%). In other provinces, more people supported amnesty

Belief that the TRC was fair to all sides and all races was expressed by 60% of respondents, with the highest response – 71% – recorded in the Free State

Asked if the TRC was "the ANC's way of punishing its opponents" four in 10 whites agreed, Afrikaans-speakers especially. Nationally, just under 30%

regarded the TRC as ANC retribution

Thirty percent of respondents said the allotted 18-month time frame for the TRC hearings should be enforced, while 50% felt the commission should continue for as long as necessary. Whites especially wanted the time-frame enforced

"Summing up, I would say the TRC has the public's blessing to uncover acts committed in the apartheid years," said Fourie. "While arousing conflictive emotions, these are deemed necessary for long-term reconciliation"

Frankness of political parties unique

De Klerk's apology was long in coming but, according to Boraine, has great impact

By **ROBERT BRAND**
Cape Town

The picture is still far from complete. But the readiness of major political parties to account for their actions in public this week was unprecedented anywhere in the world, Truth and Reconciliation Commission vice-chairman Dr Alex Boraine said yesterday.

And more is still to come after studying the parties' submissions, the commission will call them back for a second, "much more probing" round of hearings, Boraine said.

The African Christian Democratic Party, the Freedom Front, the PAC, DP, NP and ANCLined up to present accounts of the conflict of the past three

decades. The only exception among current parliamentary parties was the IFP, which was initially reluctant to co-operate with the commission but has now agreed to present its submission.

In varying degrees, the parties came clean about their roles in the violation of human rights during the conflict. Some apologized to their victims. All provided political perspectives essential to a full understanding of the conflict.

The four-day hearing also marked a "very considerable shift" in the commission's approach, Boraine said. It has so far concentrated on hearing the accounts of victims, but in its next phase of operations, the commission will be much more

active in gathering the information needed to complete its report.

The judiciary, the medical profession and even the media will be called to account, perpetrators of human rights violations will be subpoenaed to account for themselves and the amnesty applications of former security force members such as Dirk Coetzee will be speeded up to encourage others to come forward.

Although the submissions of all the parties - including the NP and ANC - still left questions, new information has come to light which could help with specific investigations, commissioner Dumisa Ntsebeza said. The ANC admitted for the first time that it had executed suspected

spies, mutineers and dissidents in its camps in Angola, and provided a list of their names.

Also for the first time, it released a list of nearly 1 000 cadres who died from various causes in exile, as well as the reports of the Stuart and Skweyiya commissions on abuses in ANC camps. The NP's submission was far less detailed.

But, Boraine said, it should not be seen in isolation as it had been prepared in consultation with the NP government's security chiefs, due to make their own submission soon.

"You cannot distinguish between a government and its functionaries. The story is incomplete, but once we've received the police and military submissions, we'll be able to

make a judgment."

De Klerk for the first time admitted that his government's security legislation enabled and even encouraged abuses by members of the security forces, and that his cabinet had authorised "unconventional" operations which could have led to violations of human rights.

But the true significance of the hearing lay in its contribution to reconciliation, commissioners said. De Klerk's unserved apology for the "pain and suffering caused by the NP's former policies" was long in coming, but, according to Boraine, had great impact. "I don't think one should underestimate the power of a leader, a former state president, publicly saying he is sorry."

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Submissions called 'a whitewash'

Star 23/8/96

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BY DAISY JONES

The ANC's submission to the Truth Commission has been given a thumbs-down and not a word of praise by political opponents

The Democratic Party's Dene Smuts said the ANC's submission, like that of other parties this week, was "notable for the avoidance of direct political accountability". Like the NP, the ANC had used its retrospective perspective to explain and justify its policies, she said.

The ANC had not taken direct responsibility for human rights violations, but only for its failure to prevent and stop them, Smuts added.

IFP spokesman Walter Felgate said "I find that the remarks (by the ANC)

amount to a whitewashing rather than a series of earnest admissions." The IFP had experienced a series of violent attacks, the serial killing of its leaders by the ANC, and threats to violently overthrow the former KwaZulu homeland, he said

The ANC's "violation of human rights had made a mockery of justice"

Pieter Aucamp, of the Conservative Party, said his party "will not accept excuses". He said the ANC was trying "to put all the blame on the Afrikaner" for "everything they did"

He pronounced the TRC's hearings "a propaganda stunt directed against us Afrikaners and all reasonable people who try to live by normal Western standards"

The Azanian People's Organisation believed the ANC should have concluded its submission by saying those who were responsible for apartheid crimes should be held accountable and charged

Azapo spokesman Pandelani Nefolovhodwe drew a parallel, saying: "It is unacceptable to Azapo that many freedom fighters are still in jail"

At the time of going to press, the NP and PAC were not in a position to comment

Commissioner Dumisa Ntsebeza said: "By and large it seemed they (the ANC) have done almost everything they could to be upfront and open. They displayed a candidness not apparent in some submissions by other parties"

Why Max Coleman left the HRC

The Human Rights Commission has been hampered by red tape, finances and now the resignation of Max Coleman, writes **Gaye Davis**

HUMAN RIGHTS commissioner Max Coleman cites "personal reasons" for his decision to resign from his post. But the word in human rights and legal circles is that his action was prompted by disillusionment fuelled by differences of opinion with Human Rights Commission (HRC) chair lawyer and theologian Dr Barney Pityana.

Coleman would not be drawn on the issue this week. "If that's what people are saying then that's what they are saying," he said. "I do not want to comment. It's a non-issue."

His resignation takes effect in October. While he says he "will leave in good spirits, convinced the commission will go from strength to strength" those he leaves behind will mourn the loss of a man who had "a huge contribution to make".

Controversies which have marked Pityana's tenure as chair of the HRC so far are said to have fed the veteran human rights campaigner's unhappiness.

First there was a highly publicised confrontation with Professor Dennis Davis whom Pityana called a racist for criticising the HRC's lack of profile and suggesting that appointees selected from political party nominees were being rewarded for "services rendered".

A subsequent controversy involved the *Sunday Times* which reported in June that creditors were after former Pan Africanist Congress official Henry Isaacs once an associate of Pityana. It reported that he was being sought by creditors faced numerous fraud charges and had an unpaid default judgment awarded against him for R20 000 in unpaid rent.

Pityana accused the newspaper of being part of a vendetta against Isaacs. But it appeared Pityana acted on what Isaacs had told him without hearing the newspaper's or the creditor's side — prompting an editorial condemning his "cavalier use of power" which the newspaper said threatened the dignity of the HRC.

But while some critics see Coleman's decision to quit as evidence of a deeper malaise affecting the commission's ability to function properly others see the body's problems as structural.

Entitled to 67 staff the HRC is negotiating for 83 but has only 15 people on board. This excludes the commissioners of whom four are part time.

Difficulties included delays in getting premises allocated by the Public Works Department in having the commission's regulations promulgated and in employing staff —

all caused by a welter of red tape.

"The greatest obstacle which will persist, is the difficulty of moving fast within the public service," says the HRC's chief executive officer, Louisa Zondo. "We had received complaints by the time I joined in May, but we couldn't act. The commission's powers were promulgated on May 17."

She said the commission's R6-million budget was inadequate. "Nobody had a clear idea of what our work would entail when it was set." This could be overcome by networking with other agencies and securing foreign and private-sector funding for projects.

The appointment of former journalist John Mnjapelo as media and public relations officer is expected to remedy the HRC's relative lack of profile.

Meanwhile its first hearing is pending: senior legal officer Liesl Gerntholtz said the case involved a student at the

Durban College of Education who faced expulsion because she was pregnant and unmarried. It was one of about 15 complaints since July that would involve investigation and public hearings.

The commission has launched a nationwide investigation into abuses in prisons prompted by letters from hundreds of prisoners complaining of assaults by warders and gangs, bias in the parole system, racial discrimination over work and food allocations and inadequate treatment of prison-

ers with HIV/AIDS.

Of about 325 complaints received since June about 150 had been processed. Most were matters that could not be dealt with ahead of the new Constitution's certification which will see the Bill of Rights applying between private individuals and not just between the state and individuals and because of the absence of any civil liberties legislation.

Other matters the commission was dealing with included violations of patients' rights in mental health institutions, the position of black children at predominantly white Afrikaans-speaking schools and alleged abuse of street children by police.

Pityana could not be reached for comment by the time of going to press.

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MOTOROLA

Mbeki admits ANC erred while in exile

(252) Sawetani 23/8/96.

By Pamela Dube
Political Reporter

AFRICAN NATIONAL Congress went into exile in the 1960s to wage a struggle against the oppression and excesses of apartheid.

But in waging that struggle, according to the ANC-appointed Stuart Commission the organisation turned on its own members with abuses and torture "worse than the Boers".

Paranoia over infiltration by security agents saw growing intolerance of dissenting voices in the ANC, with senior officials (including Cabinet Minister Mr Pallo Jordan) detained for several weeks.

The 1984 Stuart Commission – together with the Motsuenyane (1993), Skweyiya (1992) and ANC National Working Committee (1989) investigations into allegations of abuse and torture of detainees in ANC camps by its Mbokodo security arm – formed part of the organisation's submission to the Truth and Reconciliation Commission yesterday.

Deputy President Thabo Mbeki admitted to the TRC that the ANC erred in some cases of detention, torture and general human rights abuse in its military camps and called for collective responsibility.

Notorious camps

Most notorious of these camps were the Nova Stella Sao Prison, Nonkala Prison Camp and Quatro (all in Angola), the Revolutionary Council building in Lusaka, Zambia, the Mazimba Prison Camp in Tanzania and the Ugandan Prison Camp.

Abuse of power by camp administrators and top security personnel in most cases led to cadres being denied basic needs like food and medical facilities, leading to widespread diseases such as malaria, which in some cases, resulted in death.

Sexual harassment, nepotism, physical and verbal abuse were also common in the camps, the ANC admitted.

These, according to the commissions, led to general disillusionment by the rank and file, and in some instances mutiny, which often led to soldiers being shot dead.

Disciplinary problems

From 1979, "practically all disciplinary problems were resolved by severe punishment and beatings", the Stuart Commission stated.

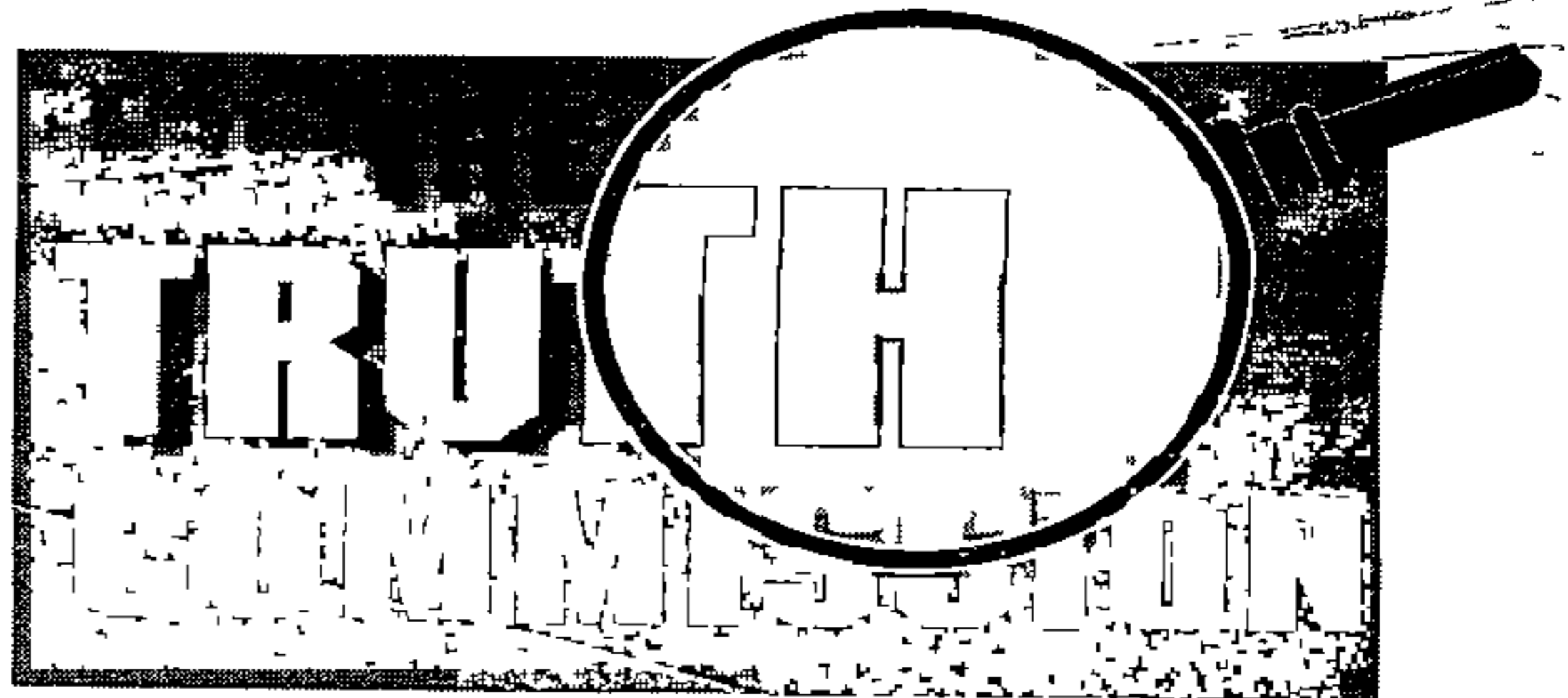
A three-day mutiny in Angolan camps in 1983 led to the arrest of 31 cadres and several others were wounded and dead. This seemed to have started a chain of ugly events which went on until the unbanning of the ANC in 1990.

In an attempt to quell rising emotions around the death of popular MK commander Thami Zulu, the ANC instituted an investigation. Its 23-page report on the circumstances around Zulu's death in 1989, however, raised more questions than answers.

Zulu, described by the ANC National Working Committee's report as "one of the heroic generation of South Africans", died a lonely man. He was "reviled by many who worked with him as a traitor, and honoured by many who received military training under him as a hero," it said.

Following the ambush and death of nine cadres under his command at the hands of government security forces near the Swaziland border in 1988, Zulu was recalled to Lusaka where he

Senior party officials implicated in human rights abuses during struggle



Jacob Zuma ... a witness told the Motsuenyane Commission he ordered the arrest of an ANC activist in exile.



Joe Modise ... according to the Motsuenyane report, an ANC cadre was arrested on his instructions.

was detained without trial for six months.

Zulu died five days after his release. The hospital report stated that he died of heart and lung failure brought about by pneumonia.

However, both friends and foes refused to buy the story. Some believed he was starved to death in detention, a belief supported by the fact that he entered confinement "as a large, well-built, slightly overweight person, and came out gaunt, frail and almost unrecognisable", according to the NWC.

His foes believed he was a police spy and had been poisoned by the security forces to silence him. Having failed to uncover the truth, the NWC stated that "if he was, in fact, a spy for Pretoria, then he died a bitter death at the hands of

those for whom he had worked".

"If he was not an enemy agent, then on top of the agony of unjust suspicion, he had the agony of TB, the agony of Aids and also the agony of poison, a terrible fate for any person".

While the unlucky ones like Zulu never lived to tell their side of the story, many returned home to open a can of worms.

Pointed a finger

Both the Motsuenyane and Skweyiya Commissions tell terrifying stories of imprisonment in detention camps. The Motsuenyane Commission, in particular, pointed a finger at some of the leading figures in South African politics.

A case in point is that of Mr David Mbatha, an ANC activist since 1968, who was detained, beaten and tortured for 10 months in Zambia and Angola after trying to trace his children.

He left South Africa through Mozambique in 1988 with his wife to visit his nine children, who were in ANC military camps in Zambia and Tanzania.

On ANC chairman Mr Jacob Zuma's advice, the couple left their car in Maputo and headed for Tanzania to see their children.

When they arrived in Lusaka, however, the Mbathas could not find Zuma, who had promised to assist them to return to Mozambique.

After waiting for Zuma in a Lusaka hotel for two months, the ANC security department detained Mbatha for over a month. Mbatha reported that he was constantly beaten, interrogated and accused of being an enemy agent.

Zuma's denials

Despite Zuma's denials that he had anything to do with Mbatha's arrest, the Motsuenyane report stated that a member of the security department, Jacob Sithole, testified he ordered the arrest.

In holding Zuma responsible for Mbatha's condition, the commissioners stated that no explanation was given why Mbatha was detained for 10 months without trial "or why he was transferred from detention in Lusaka to Quatro where conditions were significantly more harsh".

In 1981 Mr Dumisani Khosa was also arrested by the ANC security department for voicing his views against the leadership at a party meeting in Lusaka.

According to the Motsuenyane report, Khosa was arrested on the instructions of Mr Joe Modise (now Minister of Defence) for telling the meeting there was a need for better training programmes for the organisation's youth.

Khosa had also spoken about against nepotism.

Trying to look like victims

(252) Rowelan 23/8/96

By Waghied Mischach
Political Reporter

THIS WEEK National Party leader Mr FW de Klerk tried to make South Africa believe his party was a victim of circumstance when the NP made its submission to the Truth and Reconciliation Commission

NP members were victims in the sense that they lost much of their humanity in oppressing the majority of South Africans for decades

But this did not exonerate the party, as De Klerk suggested in his lengthy submission, from accepting moral responsibility for the pain and suffering that was unleashed with the implementation of apartheid

He attempted to draw a line between what he terms the "revolutionary forces" and previous NP governments, as if they were two sides in a meaningless confrontation, divorced from any moral or ethical framework

'No monopoly of virtue'

In his concluding remarks in the submission, he suggested that one of the lessons the country could draw from the "traumatic experiences of the past" was that "no single side in the conflict of the past has a monopoly of virtue or should bear responsibility for all the abuses that occurred"

This kind of disingenuous statement will certainly not endear De Klerk to the countless victims of apartheid those who died in direct confrontation with NP governments, but also those who suffered the indirect effects of poor education, malnutrition and general neglect

Who other than the most ardent NP supporter can believe that organisations like the African National Congress have

The law on amnesty, rightly or not, paints all with the same brush

to accept the same responsibility for past conflicts as the NP?

It is an absurd comparison, even considering that the ANC was apparently involved in human rights abuses in its camps in various parts of Africa

The blame that the liberation movements take for human rights abuses differs in the thrust of their activities, the fight for liberation, as opposed to the blame the NP must take for propagating an oppressive system that nearly bankrupted the country and led it to the brink of war

De Klerk qualified his arguments at length, outrageous arguments allowed largely because the TRC requires an "even-handed" approach in dealing with human rights abuses.

The law stipulates that if someone was involved in human rights abuses for a political end, that person, in the interests of reconciliation, is entitled to amnesty. It does not distinguish between those who fought for liberation and those who upheld apartheid

The NP submission reflected the disinformation the party is notorious for. De Klerk said it was incorrect to refer to his administration and that of PW Botha as the "apartheid government"

Both were "primarily concerned with dismantling apartheid and the search for workable democratic alternatives that would accommodate political aspirations of all South Africans"

He said he retained a "deep respect for our former leaders. Within the context of their time and circumstance, they were good and honourable men - although history has subsequently

shown that, as far as the policy of apartheid was concerned, they were deeply mistaken in the course on which they embarked"

De Klerk denied any involvement in human rights abuses, including giving orders to any police or army officers that led to "assassination, murder, torture, rape, assault" or other abuses

He admitted to authorising cross-border raids, but justified his actions as "legitimate" attacks on military targets not aimed at civilians

That the majority of people killed in the raids were civilians was "tragic" but these things "happen from time to time". Even the ANC killed civilians by mistake in their actions, he added

Although he said he did not want to justify the actions of the security forces in suppressing protests, he said soldiers and police sincerely believed it was their duty to protect the state from the "total onslaught" of international communism

PR exercise

The entire submission was intended to create sympathy for the NP that was, in terms of De Klerk's argument, caught up in particular circumstances and forced to act in the heavy-handed, cruel manner it did

And it served as an excellent public relations exercise for a man who is intent on transforming the NP into the majority party in South Africa

Whether he will succeed, only time will tell. But judging from this week's unconvincing performance, he certainly has a long way to go



NP leader FW de Klerk ... his submission to the TRC served as an excellent public relations exercise for the Nationalist Party



Ex-NP leader PW Botha ... De Klerk described him as a good and honourable man and as a champion of democracy

In the name of the struggle

BEFORE HE WAS SENTENCED to death in 1986, Amanzimtoti bomber and Umkhonto weSizwe cadre Andrew Zondo told the court he regretted the attack that claimed five lives and left 40 injured. "I wish to say I am sorry to the people who have lost their friends and kids and families."

Had Zondo lived to testify before the Truth and Reconciliation Commission, his case would probably not constitute a gross human rights violation, according to submissions presented by African National Congress leader Thabo Mbeki to the TRC yesterday.

In its submissions, the ANC distinguished between human rights violations by MK cadres during military operations inside the country and human rights abuses which its intelligence department meted out to ANC members or suspected state agents while in exile.

While leaving room for borderline cases to be decided by the TRC, the ANC was unequivocal about the TRC's brief on former MK combatants. At the outset, the ANC made it clear that "it would be morally wrong and legally incorrect to equate apartheid with the resistance against it".

Just war of liberation

"The overwhelming majority of actions carried out in the course of the just war of national liberation do not constitute gross violations of human rights as defined in the Act establishing and mandating the TRC."

"The ANC will therefore not be making any representation about those activities in its conduct of the struggle which we deem to constitute legitimate actions carried out during a just war of national liberation."

Regarding operations which it believes fall within the ambit of the TRC's work, the ANC said it would provide the TRC with the necessary information and would encourage its members and supporters to apply for amnesty.

The ANC outlined phases of struggle and operational difficulties which it argued necessitated deviations from its fundamental policy of avoiding civilian casualties.

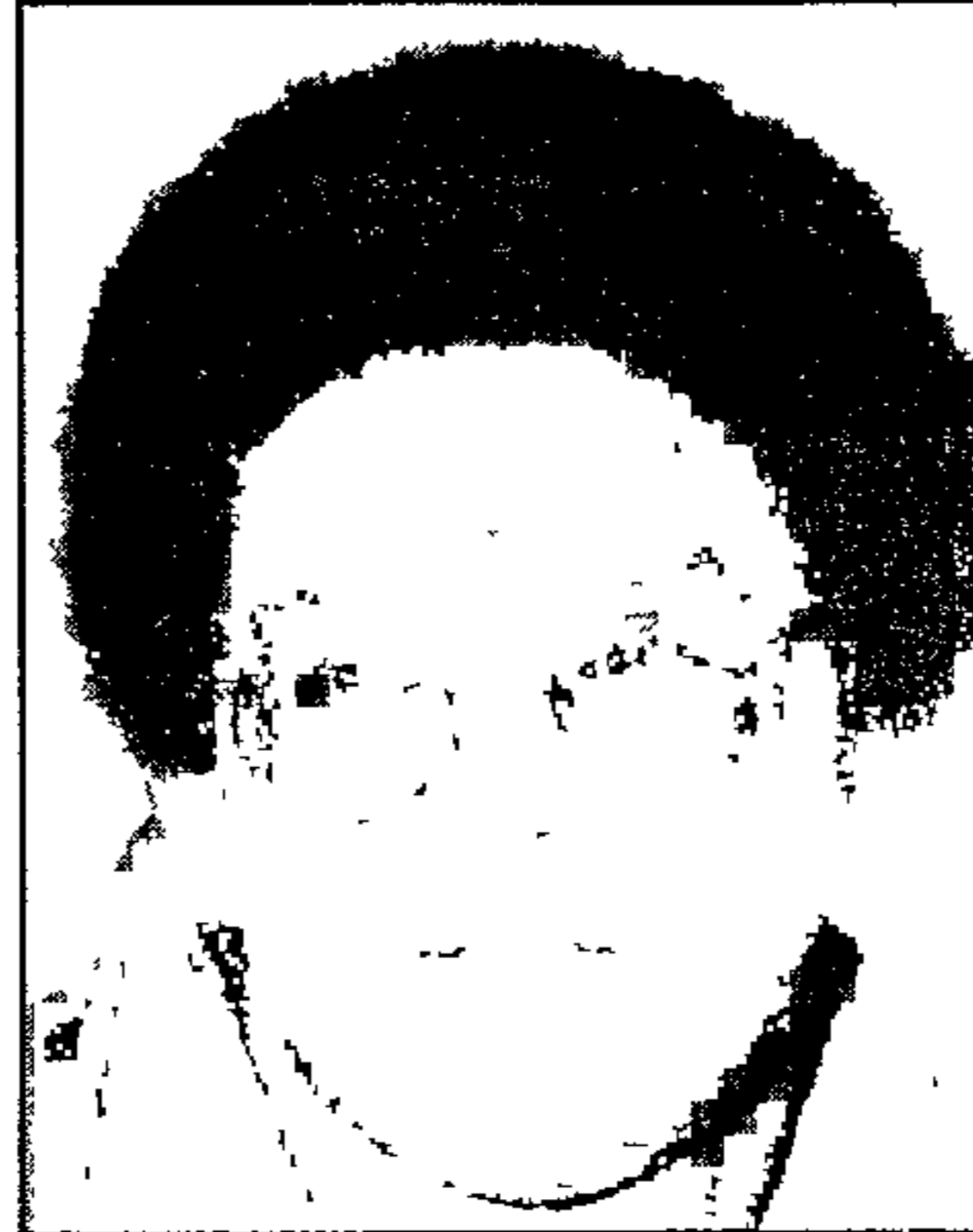
"Given prevailing circumstances, the ANC wishes to submit that it conducted itself well. Yet we acknowledge that, in the context of our work, excesses occurred," the ANC said.

Having embarked on its armed struggle because of state violence and the denial of political activity, the ANC insisted that MK consistently maintained the supremacy of politics over narrow military activity.

At its 1969 consultative conference in Tanzania, it adopted a programme titled *Strategy and Tactics of the ANC*, which saw the armed struggle as only part of a broader politi-

The ANC maintains that acts carried out in the context of a just war for liberation of a nation must necessarily fall outside of the TRC's ambit. **Mzimasi Ngudle** explores the arguments it presents...

(252) *Sanlam 23/8/96*



Robert McBride ... the MK cadre targeted Magoos Bar because it was frequented by off-duty members of the security forces.

cal strategy to ensure the battle against apartheid was fought on all possible fronts.

The 1985 Kabwe conference in Zambia ushered in a slight shift in legitimate targets, with the ANC accepting that "the risk of civilians being caught in the crossfire could no longer be allowed to prevent the urgently needed all-round intensification of the armed struggle".

"It was during the 1980s that attacks on targets with no apparent connection to the apartheid state took place," the ANC said.

"In some cases these attacks were the result of the grey area caused by anger and/or misunderstanding of ANC policy. The ANC has acknowledged that in a number of instances breaches in policy did occur and deeply regrets civilian casualties."

"The Amanzimtoti bombing provides a clear example of the manner in which behaviour of the apartheid regime was a significant factor in provoking certain attacks in breach of ANC policy."

Incensed by the December 20 1985 Lesotho massacre in which nine people died, Zondo - who initially planned to attack a defence force air base - placed a bomb in Amanzimtoti's

Sanlam Centre three days later.

In its submissions, the ANC listed this act under operations made at the initiative of cadres in response to state brutality. The ANC said it was committed in the context of a just war, and thus fell outside the TRC's ambit.

Similar acts included the Silverton siege (1980), targeting of white farmers, Robert McBride's Magoos Bar bombing (1986) and the 1983 bombing of the South African Air Force headquarters.

- The ANC said the Silverton siege, in which three MK cadres and two white women died, illustrated the manner in which the state refused to accord MK cadres prisoner-of-war status, resulting in unnecessary casualties.

- Other legitimate targets were white farmers, whom the ANC claimed were integrated into the security system.

- The ANC targeted the Magoos Bar in Durban because it was frequented by off-duty members of the security forces. Three civilians were killed and 69 others injured, and

- The ANC said it did not doubt that the bombing of SAAF headquarters in Pretoria, in which 19 people were killed and over 200 injured, was overwhelmingly a military target.

"At least 11 of those killed were SAAF officers. Many of those injured may have not been military officers but were employed by the SAAF and thereby associated themselves with apartheid military aggression," it said.

Protocols of war

The ANC contended that the location of the headquarters of an arm of the SADF, responsible for cross-border air raids, in a concentrated civilian area was itself a violation of protocols of war.

"With regard to those attacks on soft targets for which MK personnel were responsible, the ANC does not seek to justify such attacks but insists that the context in which they occurred is relevant."

Pointing fingers at National Party governments, the ANC asked the TRC to probe the extent of gross human rights violations sanctioned by their leaders.

It asked the TRC to identify commanders and operatives of the former Civil Cooperation Bureau, the Vlakplaas police unit, the Directorate of Covert Collections and the Joint Management Centres.

- See page 3.

We're sorry, but we're not paying, say Nats

ARG 24/8/96
MXOLISIMGXASHE
Staff Reporter (252)

THE National Party will not make any financial contribution towards easing the plight of people who suffered under the apartheid regime, in spite of apologising for its deeds before the Truth and Reconciliation Commission (TRC) this week. NP leader F W de Klerk's spokesman, Fanus Schoeman, told SATURDAY Argus yesterday that his party did not have sufficient money.

He said reparations "might run into many millions of rands", and he felt the Government was in a better position to contribute.

NP members would also be contributing through their tax payments towards a fund established to help victims of human rights abuses, he said.

Mr De Klerk was one of the politicians who presented submissions to the TRC this week, explaining party policies, and stating how they viewed acts by their members or functionaries which killed, injured or maimed people.

Other leaders who made submissions were deputy president Thabo Mbeki for the ANC, Clarence Makwetu for the PAC, Tony Leon for the DP, Constand Viljoen for the Freedom Front and Kenneth Meshoe for the African Christian Democratic Party.

The common feature in all their submissions was accepting "collective responsibility" for all the acts of their members or functionaries, especially those done within the directives of their parties.

The ANC and PAC, who sympathised with victims of their armed wings, were prepared to take responsibility even for actions that were carried out with "overzealousness" and exceeded the bounds of their policies.

In his submission Mr De Klerk said the NP had never authorised the murder, torture, assassination and rape of apartheid's foes.

Mr Schoeman said if security policemen Eugene de Kock and Dirk Coetsee and former defence minister Magnus Malan were found by the TRC to have exceeded the spirit of the law, then the law would have to take its course.

Mr Mbeki said at a press conference the ANC would be surprised if the TRC pressed charges against some ANC members. Excesses were executed within the spirit of combating an evil system, apartheid.

However, where MK cadres committed crimes such as rape, the law would naturally have to take its course.

"It was the policy of the ANC - ever since the formation of MK in 1961 - to avoid unnecessary loss of life," Mr Mbeki said in his main submission.

He spent some time explaining the circumstances under which some MK cadres died in ANC camps. Some were executed in circumstances of mistrust and sometimes fear and paranoia caused by infiltration.

The PAC has not made any admission that some of its cadres who died in the camps were in fact murdered for disagreeing with the leadership.

The TRC has asked the PAC to give it a complete list of cadres who died in exile.

Ignore ANC 'red herring' Hani assassin tells TRC

(252) ARG 24/8/96

JOHANNESBURG - The Political Rights Organisation (PRO), speaking on behalf of Communist Party secretary-general Chris Hani's assassin, Janus Walus, said claims by the ANC that Military Intelligence (MI) agents were involved in the killing were a "red herring".

PRO chairwoman SM Oosthuizen said the organisation had been asked by Walus to respond to allegations by Deputy President Thabo Mbeki that the ANC had evidence at its disposal of MI involvement in Mr Hani's slaying.

Sources were unable to verify this as Walus is serving a life sentence in prison for Mr Hani's murder, along with former Conservative Party MP Clive Derby-Lewis.

Ms Oosthuizen said Walus

had asked the Truth and Reconciliation Commission's Amnesty Committee to examine his application which clearly set out the position surrounding Mr Hani's murder - and that it not be sidetracked by the "ANC's obvious red herring" tactics to obfuscate certain facts.

Ms Oosthuizen said at the trial of Walus and Derby-Lewis, Mr Justice Frikkie Eloff congratulated the police on their thorough investigation.

Foreign jurists and policemen, along with the ANC, had kept a watching brief at the trial. At the end of the proceedings, Mr Justice Eloff declared there was no evidence of conspiracy involving anyone in South Africa or abroad in Mr Hani's murder - Sapa

'No curbs on ANC members at TRC hearings'

By JOHN YELD

President Mandela has reaffirmed the independence of the Truth and Reconciliation Commission and will encourage all ANC members to take part in its activities "without let or hindrance".

This was revealed by commission deputy chairman Alex Boraine at a media conference at the end of the commission's four-day special hearing at which all the political parties represented in Parliament, except the IFP, made presentations to the commission.

The IFP, which made a late decision to take part, will probably make its submission within the next two weeks.

Boraine said he had written to Mandela expressing concern after former deputy environmental affairs and tourism minister Bantu Holomisa had been fired from the Cabinet, possibly for having spoken out at a Truth Commission hearing in Port Elizabeth about an alleged R50 000 bribe to fellow cabinet minister Stella Sigcau.

Boraine had subsequently been invited to a meeting at which Mandela had confirmed his "total commitment" to the work of the commission and to its responsibility to get as close to the full truth about gross human rights violations as possible.

Mandela had said he would encourage ANC members to testify before the commission without interference, Boraine said - which was "very encouraging".

Earlier, Deputy President Thabo Mbeki made similar remarks to the commission at the end of his lengthy submission on behalf of the ANC on Thursday.

Asked directly by commissioner Denzil Potgieter whether there were any restraints on ANC members approaching the commission, Mbeki replied "No, there isn't. And I would say, through this is a guess, the overwhelming majority (of those testifying at the commission) could be members and supporters of the ANC."

Boraine also stressed that the commission would invite a range of people to testify if it



REASSURANCE: Deputy President Thabo Mbeki addresses the Truth and Reconciliation Commission in Cape Town on Thursday. He said there was no restraint on ANC members testifying at the hearings.

believed they could supply missing information, and that it would subpoena those who declined.

Asked if this could include former state president P W Botha and former cabinet ministers such as Adriaan Vlok, Boraine replied "We will have no hesitation - our mandate is to get to the truth as far as is humanly possible."

The commission faces a number of difficult issues following this week's hearings, at which it was presented with conflicting arguments and advice.

The Freedom Front called for the commission's cut-off date of December 5 1993 for acts for which amnesty could be granted to be extended to May 10 1994, the day of Mandela's inauguration.

FF leader Constand Viljoen made a barely disguised acknowledgement that many FF leaders and supporters had been involved in illegal acts between the cut-off date and the April 27 1994 election. "These included acts such as training in the throwing of handgrenades and the storing of explosives for sabotage.

Unless they were able to apply for amnesty, FF members would not tell the whole truth for fear of incriminating themselves and possibly facing criminal charges, Viljoen said.

Asked for his opinion about this Mbeki said there had been pressure on the ANC to change the date on several occasions. "We have so far said we don't agree. That date should remain."

When Boraine was asked about the cut-off dates - both the out-of-date for offences for which amnesty could be granted and the date by which amnesty applications have to be submitted to the commission (December 15), he said the commission was concerned and was seeking advice.

"There are many tricky issues involved and certainly the commission has not yet made up its mind."

The commission also got conflicting views on the issues of who should be eligible for amnesty and how the Norgard principles - developed in the run-up to Namibian independence as a means of determining whether acts were committed with a legitimate political motive, and now enshrined in the Truth Commission Act - should be applied.

National Party leader F W de Klerk made a strong call for a general amnesty for all perpetrators of human rights violations, regardless of the seriousness of their crimes.

He argued that a rigid application of the Norgard principles would be unjust as previous legislation had enabled the granting of amnesty for "abhorrent" crimes, and cited Margot's Bar bomber Robert McBride as an example of a political offender who would not have received amnesty if the Norgard principles had been strictly applied.

But Mbeki said the ANC supported the amnesty provision of the act and did not want it changed - "It is a way to get the truth told but not to hold Nuremberg trials".

However, it was important for the commission to complete the amnesty process within its lifetime, Mbeki said. "This will ensure that the democratic state is not left with the responsibility of instituting criminal investigations and the possible prosecution of people for actions that took place during the period covered by the mandate of the commission."

"If that were to happen to any significant degree, it would mean that the commission had failed in its mission and had, by failure, condemned our country to continuing conflict about events of the past, rather than the reconciliation sought," Mbeki said.

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PHOTOGRAPH AP

I'm sorry, but ... FW tells the hearing

NATIONAL Party leader F W de Klerk told the Truth and Reconciliation Commission this week that it was important to grasp what motivated those who defended apartheid.

The document he submitted related primarily to his own presidency and to events of which he had direct knowledge.

He said that former state president P W Botha refused to co-operate with him on the submission.

While the NP was prepared to admit its mistakes and was "genuinely repentant", De Klerk said it was a gross injustice to blame the party for all the conflicts of the past. "It is quite incorrect to refer to our administration as the 'aparthid government'."

"We were primarily concerned with the dismantling of apartheid, the defence of the country against revolution and the search for workable democratic alternatives that would accommodate the political aspirations of all South Africans."

The government had only resorted to unconventional strategies, which resulted in abuses, in direct response to unconventional methods used by the revolutionary movements.

This had blurred traditional distinctions between legitimate and illegitimate targets.

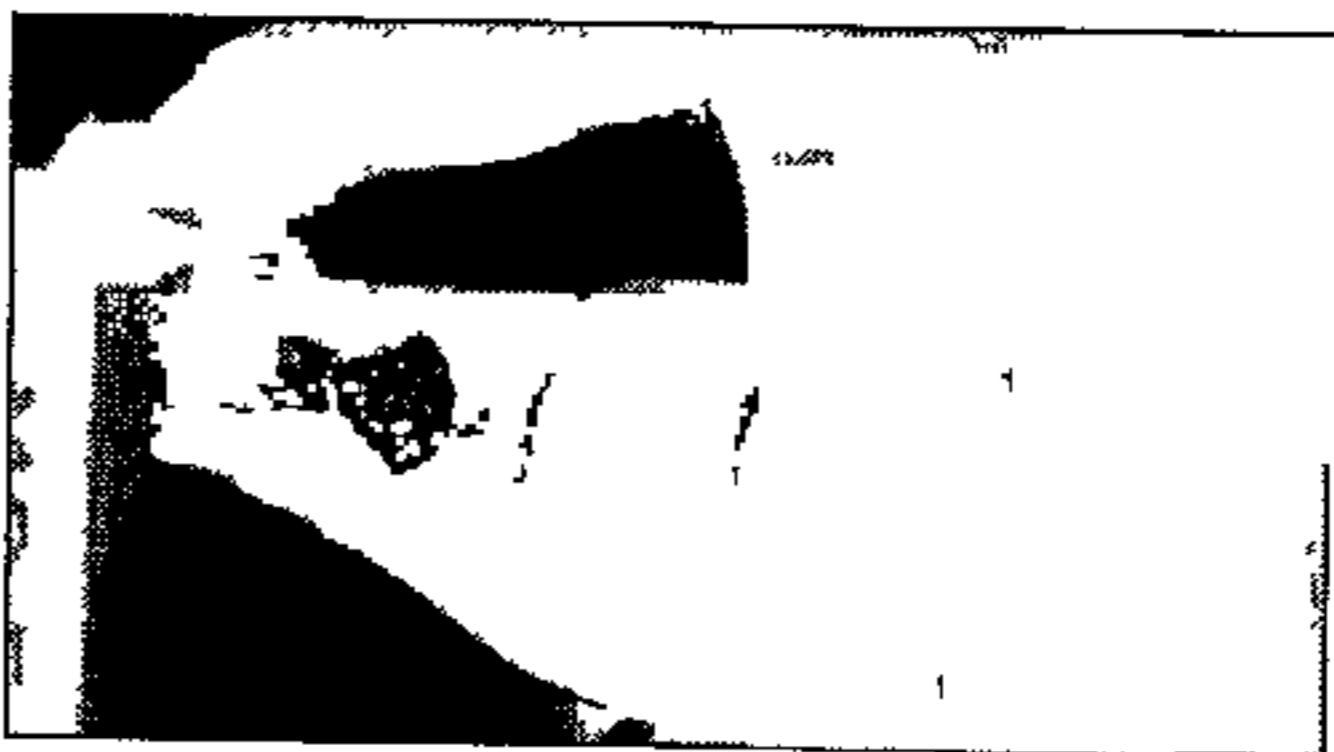
However, he and fellow cabinet ministers never took any decision authorising or instructing the commission of gross human rights violations. And he invited the commission to examine the minutes of the cabinet and the late security council to confirm this.

The unconventional actions that were approved dealt with information gathering, disinformation and help to organisations opposed to revolutionary forces.

De Klerk said that his moves to bring about reform were not supported by some elements in the security forces. "I suspect that many of the unauthorised actions that are now coming to light, were at the time directed as such against the transformation process as they were rejected against the revolutionary threat. It has now become clear that certain elements misused state funds and were involved in unauthorised operations."

He accepted overall responsibility for what happened during his leadership, but said specific guidelines should be used in apportioning blame for specific incidents.

"I should like to express my deepest sympathy with all those on all sides who suffered during the conflict. I and any other leading figures have already apologised for the pain caused by former policies of the National Party. I reiterate these apologies today," De Klerk said.



F W DE KLERK Apologised

THE leader of the National Party, F W de Klerk, told the truth commission this week that "truth is complex and multifaceted".

However, it was clear that submissions by the NP and the ANC left many questions unanswered and, in some cases, raised new ones.

The testimony of both parties had been expected to go beyond explaining the historical context in which gross human rights violations took place.

But while the ANC was largely candid, the NP was disingenuous.

De Klerk told the commission that it was not his party's understanding, following preparatory meetings, that specific details were required this week.

While the NP was prepared to co-operate and to give information about specific incidents, it could not furnish information it did not have at its disposal, he said.

De Klerk tried to draw a distinction between the NP as a political party and the former government. This was accompanied by an attempt to distance what he called the "old" NP from the "new" NP.

It was presumably with this in mind that the NP, the SA National Defence Force, and the retired leadership of the SA Police agreed to make separate submissions, indicating their areas of knowledge about what happened.

If De Klerk is to be believed, he and those in the cabinet, the State Security Council or cabinet committees were never party to decisions to commit gross violations of human rights.

De Klerk said "In dealing with the unconventional strategies from the side of the government, I want to make it clear from the outset that, within my knowledge and experience, they never included the authorisation of assassination, murder, torture, rape, assault or the like. "I have never been part of any decision taken by cabinet, the State Security Council or any committee authorising or instructing the commission of such gross violations of human rights. Nor did I directly or indirectly ever suggest, order or authorise any such action."

Official truths fail to answer all the questions



RAISING QUESTIONS... ANC stalwarts Govan Mbeki, Raymond Mhlaba and Ahmed Kathrada share a joke as Ray Alexander looks on at the truth commission hearings this week

By CYRIL MDLADLA
Parliamentary Correspondent

De Klerk said that as State President he had authorised cross-border actions against legitimate military targets, but such authorisation specifically excluded attacks on civilians.

He said unconventional strategies were implemented on a "need-to-know" basis, but the government had acted when instances of abuse came to its attention.

This implies that the gross human rights violations by the police and the defence force continued for so long because neither De Klerk nor his colleagues in the cabinet knew about them.

closed when the generals testify. Perhaps they will also tell us whether De Klerk, or Deputy President Thabo Mbeki, is being truthful about the fate of the National Security Management System, established in the 70s to counter the "total onslaught".

De Klerk told the commission that it was terminated in 1990. Mbeki said only the name had been changed, and that covert operations had continued up to the first democratic elections.

The ANC was more frank with the commission, mainly because most of the details were already public knowledge. The story of gross human rights violations in the camps is well documented, and has been dealt with extensively by commissions of inquiry both inside and outside South Africa.

Many of the injustices in the camps were blamed on ANC efforts to root out police agents.

Mbeki asked the commission to establish which of the agents were brought back to the country by the ANC and reintegrated into the state networks.

The former government has suggested that the ANC leadership would be hugely embarrassed if a full disclosure were made. The ANC in its submission identified only three alleged police agents.

Disclosing their identities has, in some cases, raised more questions. In the case of a former trade union leader, Maxwell Xulu, the details of his alleged activities have cast suspicion on others — some of them prominent leaders of the ANC — by identifying people who attended meetings with the agent and saying that two among them were informers.

We have been left no wiser about Umkhonto weSizwe commander Thami Zulu, who was accused of being a spy for the former government. Nor do we know of any ANC leaders who issued assassination orders. We don't know who, if any, of our cabinet ministers were among the more than 600 agents of the old order.

Some of these questions might be answered when the generals testify — if they have had enough of political masters who wash their hands of their operatives.

let alone condoned them. De Klerk would have us believe that the former government.

Heard for the first time about the police hit squads when Almond Nofomela and Dirk Coetzee split the beans.

Had no idea who had authorised, commanded and carried out the assassination of anti-apartheid leaders in different parts of the world, and

Did not know who was responsible for the approval of destabilisation campaigns in neighbouring countries. Nor was there anyone in the former cabinet who could shed light on the death of Mozambique's President Samora Machel.

As De Klerk said, it is expected that details about various incidents will be dis-

ANC justified in its resistance to the 'super race'



THABO MBEKI Fighting a 'just war'

violations of human rights, Mbeki named 32 people executed on orders from the ANC's military tribunal.

He detailed deaths of ANC members in exile, and explained the circumstances around several violations of human rights, including car bombings and why suspected government agents had been treated harshly when they were discovered.

The ANC said South Africa's Military Intelligence had been involved in some of the attacks that were blamed on the ANC or its supporters, such as the KwaMakutha massacre for which General Magnus Malan and others are standing trial in Durban. He said the commission should investigate the possibility of Military Intelligence involvement in former SACP leader Chris Ham's murder.

Mbeki disclosed that the organisation had abandoned plans — already at an advanced stage — to bomb former president P W Botha and his cabinet at a Republic Day celebration in Bloemfontein in 1981.

The car bomb would have led to the loss of many civilian lives, he said.

Apologising for excesses which resulted in gross

Clarity sought on amnesties

By ADRIAN HADLAND

Political parties called on the Truth and Reconciliation Commission this week to dispel confusion over the legal implications of giving evidence to the body

The ANC, PAC, NP and Freedom Front complained to the commission this week that a lack of clarity on legal matters had forced potential amnesty applicants and even victims of human rights abuses to adopt a wait-and-see attitude

With December the deadline for amnesty applications, there are fears that hundreds, possibly thousands, of people will be prosecuted after failing to apply in time

Deputy President Thabo Mbeki said "There is a misconception that if you apply (for amnesty) you open yourself up

to prosecution. This is not true. It is important the commission addresses this."

The ANC, in its submission to the commission, said it was important that the commission completed the amnesty process to ensure that the state was not left with the responsibility of instituting criminal investigations for actions that took place during the period covered in the commission's mandate

Freedom Front leader General Constand Viljoen, pointing to the De Kock and Malan trials, said "Investigations and prosecutions are taking place concerning events that fall under the ambit of the commission." Consequently, members were uncertain as to whether they should apply for amnesty

PAC president Clarence Makwetu told the commission his party was not prepared to sub-

mit an account of its activities between 1960 and 1993 as this might implicate party members

NP leader F W de Klerk also complained of inconsistencies in the amnesty process, saying the commission's credibility was on the line

Commission chairman Desmond Tutu assured parties that their members could approach the commission "without prejudice" to find out their legal position "Unless we have victims and perpetrators coming to the commission, we will fail"

Both the Freedom Front and the PAC appealed to the commission to extend its mandate to May 10 1994, the date on which President Nelson Mandela was inaugurated

The commission would discuss the date, Tutu said

Star 24/8/96

(252)

'Confession' becomes hand-washing exercise

CHIARA CARTER

RUTH WAS not the first word that came to mind during the submissions made by political parties to the truth body in Cape Town last week, where apologies and revelations jostled alongside evasions and omissions.

NP leader FW de Klerk made his submission as the former state president of the Nationalist government.

He apologised for apartheid and the human suffering which NP racist policies caused.

He said he accepted responsibility for unconventional methods

used during the total onslaught era, such as disinformation and assistance to counter-revolutionary groups.

But De Klerk denied ever countenancing specific human rights transgressions.

He said neither his cabinet colleagues nor the State Security Council had given the go-ahead for assassination, murder, torture, rape or assault, and they had not known such events were occurring.

Some abuses might have occurred where security forces misinterpreted broad decisions.

In an apparent acknowledgement-

ment that there was indeed a third force operating in the country, De Klerk said such actions were driven by people opposed to his reforms.

He said the TRC should look at individual responsibility, from ministerial level to that of operational security forces.

He would accept responsibility for cases where people acted in the belief they were carrying out government policy and instances where people were overzealous in what they did - but would not accept responsibility for acts carried out with "evil intent".

De Klerk's submission did not

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explain how the highest tier of government could have remained ignorant of three decades of deaths in detention, for example.

And it did not tackle why the previous government did not vigorously inquire into allegations by opposition politicians at the time that such violations were occurring on a systematic basis.

The ANC's account included outlining the context in which the organisation's armed struggle was waged over three decades.

The submission was remarkably frank in many respects, including providing details about executions

carried out by the movement in exile.

But there remained significant silences, as well as areas where the ANC's analysis appeared thin.

The ANC did not provide details about hundreds of operations carried out during the late 1970s and 1980s, in many of which civilians were injured or killed.

The section dealing with the Self Defence Units implied that much of the blame for excesses carried out by such units could be placed at the door of state agents.

There was no questioning of the extent to which, by setting up such

units, the ANC had created a monster it had no hope of controlling.

The PAC presented the TRC with a lengthy account of colonialism and repression in South Africa, but refused to provide details about its military commanders who carried out attacks, saying the organisation feared reprisals.

PAC President Clarence Makwetu said the shift from targeting security structures to targeting whites was a departure from the organisation's policy. His leaders accepted responsibility for this

'Uncover rot at top'

CHIARA CARTER

THE TRC has been asked to go to the heart of the apartheid state to discover at what level acts of gross human rights violations were sanctioned by the previous government, and, in a move with possible international law implications, to inquire into whether the previous regime used chemical warfare.

The NP in its submission to the TRC this week said that while the government had undertaken repressive measures in the country in response to the "total onslaught",

at no time did the cabinet know of or condone gross human rights violations such as torture, rape or murder.

But the ANC has asked the TRC to look at whether the former government was involved at the highest level in just such violations.

The ANC said the truth body needed to examine documents dealing with meetings of the cabinet and the State Security Council and its predecessors and successors, and hear evidence from key ministers at the time.

The ANC said the TRC needed

to uncover full details about hit squads run by the security forces as well as operations carried out through secret projects and front companies.

It said the TRC should find out who set up vigilante and criminal gangs, who decided upon and carried out false flag operations, and the extent to which the state had fanned conflict in the black community.

The ANC also asked the TRC to look at the role played by spies in the liberation movements, SDUs and other community structures,

and to discover which agents returned to the country and worked for the state.

There should also be an inquiry into agents who worked in the mass media.

The ANC said there was information linking far-right groups such as the Orde Boerevolk to Military Intelligence. The TRC should investigate whether such a group was involved in Chris Han's assassination.

The TRC should also look at a range of other murders and assassinations, including murders in de-

tention and during protest actions, the assassination of ANC leaders and cadres in exile, and murders of members of other apartheid organisations within and outside the country.

The previous government should also be made to come forward with information about liberation movement cadres who vanished without trace.

Details needed to be uncovered about the use of poisoning as a weapon. Cases included the poisoning of prominent ANC members Thami Zulu, Francis Meli-

and Solly Smith

The TRC was asked find out details about raids on ANC houses and other targets outside South Africa, the destabilisation of neighbouring states, the true facts behind the plane crash in which Mozambican president Samora Machel died, and the actions of several military regiments.

The ANC also argued that there were indications that the state had engaged in chemical warfare, and this needed to be investigated.

General to appear before commission

Stephané Bothma

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PRETORIA — Former deputy police commissioner Basie Smit is to be the first of seven retired generals to be subpoenaed to testify before the truth commission's human rights committee

A source said Smit's subpoena would be issued on August 30, and Smit could testify as soon as the first week of September

Commission deputy chairman Alex Boraine said the commission would "invite" a number of alleged perpetrators of human rights violations to give testimony and issue subpoenas only as a last resort.

However, subpoenas for seven generals were prepared last week. They are Smit, Krappies Engelbrecht, Johan le Roux, Bertus Steyn and former commissioners Johann van der Merwe, Mike Geldenhuys and Johan Coetzee

In testimony in the trial of former Vlakplaas commander Col Eugene de Kock, Smit was linked to the supply of weapons to Inkatha and also to in-

Continued on Page 2

Generals

Continued from Page 1

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involvement in fraud relating to secret police funds

The seven generals had supported 22 lower-ranking policemen in a letter to the commission admitting knowledge of a host of alleged crimes

The commission and its investigation team have prepared a programme of subpoenas under section 29 of the Promotion of National Unity and Reconciliation Act

The source said that in addition to

the generals, other target groups of alleged perpetrators had been identified and subpoenas were being prepared. The commission had set aside time to consult attorneys-general where necessary after each of the generals had concluded their testimony

The source also said a special investigation by the commission's investigation unit into cross-border related activities by the former security forces was almost complete

The investigation unit of the human rights violation committee has received more than 2 500 statements.

Comment: Page 12

Mbeki will deal with TRC statement gaps

CT 26/8/96

(252)

DEPUTY President Thabo Mbeki would deal with any perceived gaps in the ANC's submission to the Truth and Reconciliation Commission should the reconciliation body seek more clarity, the ANC said yesterday.

It was reacting to newspaper reports that political party submissions to the commission this week left many "unanswered questions".

ANC national spokesman Mr Ronnie Mamoepa said these would be dealt with by Mbeki should he be required to return to the commission to deal with outstanding matters.

Truth Commission deputy chairman Dr Alex Boraine has indicated after the four-day special hearings for political parties that they would be required to return to the commission

to answer questions arising from their written submissions.

The ANC has already told the commission that details of its operations during the armed struggle would be disclosed when individual members applied for amnesty.

The ANC's submission did not disclose who among its leaders ordered some of its more high-profile attacks. These included the Church Street car bomb outside the air force headquarters in Pretoria and the bombing of the Magoo's and Why Not bars in Durban.

Another omission was whether the ANC was behind the July 1988 car bomb in Ellis Park in which two people were killed and 38 were injured. — Sapa

Police 'ambush' tactics described

BD 27/8/96 (252)

UITENHAGE — Despatch police used "Trojan horse" tactics to launch deadly surprise attacks on township children and elderly residents in the turbulent 1980s, the truth and reconciliation commission was told yesterday.

Three witnesses, among them an 80-year-old man, said yesterday police in camouflage gear hid under tree branches on the backs of municipal trucks before opening fire on unsuspecting residents.

Mntukanti Mbolekwa, who was 69 at the time, said he was "basking" in the late afternoon sun on April 18 1985 when a municipal truck with a load of tree branches suddenly appeared.

Mbolekwa said "The truck stopped near my house and police appeared from under the branches and fired at me with birdshot. I was wounded on the left arm and chest."

Mbolekwa, who still has pellets lodged in his chest, said he was dragged from the yard of his home and left in the street for more than an hour before an ambulance took him away.

He told the commission his only wish was that government would build houses with running water because this would "make people happy and also make them feel like human beings".

Another witness, Msomsokoh

Nqandu, said his son Xohsile, was killed when police similarly opened fire on a group of school children.

Nqandu told the commission that his son and other children were leaving the school when the police arrived. He said Xohsile died at Uitenhage's provincial hospital the following day.

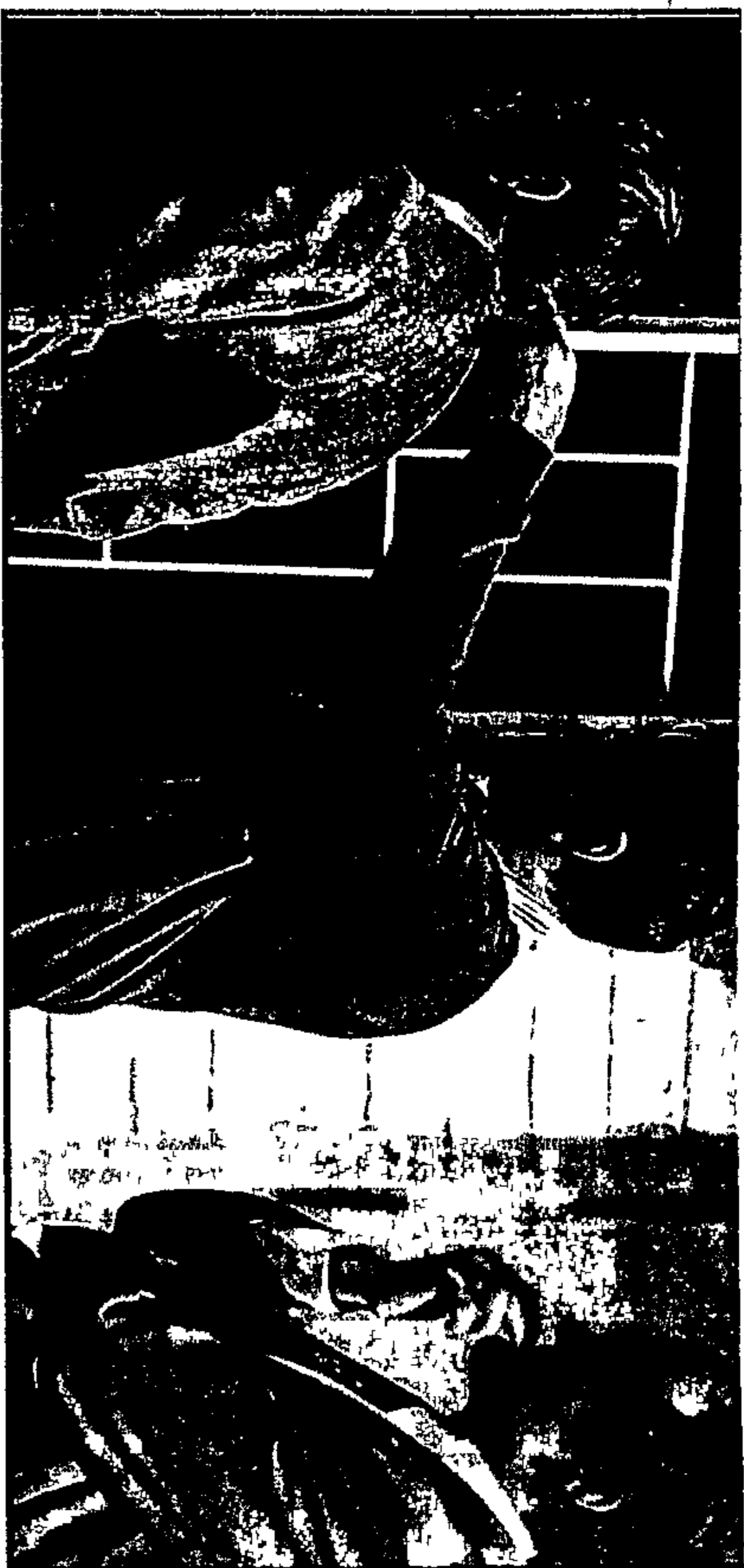
He asked the commission to establish the identities of his son's killers.

Lulamile Basie Peter, a former pupil of Despatch township's Nomathamsanqa higher primary school, told the commission of another fateful encounter with the municipal truck on the same day that Mbolekwa was shot.

Peter said that on April 18 1985, a group of pupils had stopped a municipal truck driving past the school grounds. A coloured driver holding a firearm had climbed down from the truck and fired four shots in the air as Peter fled.

"At that instant, white policemen emerged from under the load of trees and bushes on the back of the truck and opened fire on the group of scholars, killing four."

Peter said he was shot in the buttocks, chest and left arm. He told the commission he was later charged with public violence and sentenced to five-and-a-half years in prison — Ecna



Visiting the scene of the crime

Former Vlakplaas commander Eugene de Kock (centre) accompanied by members of his defence team, Filip Hattingh (left) and Schalk Hugo, points out parts of the notorious police base during an inspection *in loco* last year. De Kock was yesterday found guilty in the Pretoria Supreme Court on five counts of murder.

PIC PRETORIA NEWS

De Kock guilty

of five murders

By Josias Charle

FORMER Vlakplaas commander Colonel Eugene de Kock was yesterday found guilty on five charges of murder in the Pretoria Supreme Court.

The murders relate to an incident in Nelspruit on March 26 1992 when four would-be robbers were killed in a hail of bullets. The minutes in which they were travelling was set alight while they were trapped inside.

The fifth man, Mr Tlissetso Leballo, a former driver of Mrs Winnie Madikizela-Mandela, was later killed on De Kock's instructions. He had stayed behind in a getaway

car. De Kock had ordered that he be fetched and blown up with explosives at a disused mine near Thabazimbi.

Mr Kibona Gabela, Mr Lawrence Nyalande, Mr Glenack Mama and Mr Oscar Ntshaba also died in the attack.

They had been lured into a police trap by former informer Mr Ben van Zyl. They were made to believe they were to take part in a bank robbery in Pretoria.

Along the route they took, police were ready and armed with R5 rifles. No warning shots were fired and no attempt was made to arrest them.

Handing down judgment yesterday, Mr Justice Willie van der Merwe said he and two assessors had reached

unanimity on the outcome of the trial. Van der Merwe said the State had proved that De Kock had planned and taken part in the killing of the four men. He was also instrumental in compiling a false report regarding the shooting incident.

De Kock had pleaded not guilty to 121 charges including eight of murder, conspiracy to commit murder, attempted murder, fraud and illegal possession of weapons.

He did not enter an explanation for his plea and neither did he take the stand to explain to the court why he should not be found guilty when his legal counsel, Mr Flip Hattingh, SC, closed his case two weeks ago.

On this aspect, Van der Merwe said it was De Kock's right not to take the stand and that should not be used against him.

His refusal to testify did not also mean that he accepted the State's version of events.

"Various sections of the Criminal Procedure Act protect his right to remain silent," Van der Merwe said.

He said, however, that in some instances silence may be construed to mean guilt on the part of the accused.

Van der Merwe said he would deal later with the testimony of various State witnesses. He would also deal with the issue of indemnity from prosecution later.

This relates to several State witnesses who were working for De Kock while they were members of the notorious Vlakplaas unit.

Most of them, including Warrant-officer Willie Nortje, Major Rolf Gevers and Sergeant Douglas Holtzhausen, were De Kock's former confidantes who turned against him.

They have had several murder charges against them withdrawn.

De Kock's legal team made several concessions to some of the murder and fraud charges.

The trial started on February 20 last year and so far nearly R5 million has been spent to cover De Kock's legal costs.

(2521) Souwester 27/8/96

E Cape cops 'known for wild shooting'

(252) et 27/8/96
OWN CORRESPONDENT

UITENHAGE The first day of the Truth and Reconciliation Commission's hearings here yesterday was marked by the pain of victims of police shootings in the area during the mid-1980s

One commissioner, the Rev Bongani Finca, said "I don't remember us getting so many people testifying about policemen shooting wildly. Here in the Eastern Cape it seems the police were a law unto themselves"

Sixteen-year-old Seuntjie Soya was standing in the road in Despatch, near Uitenhage, chatting to a neighbour when a police patrol car approached. Policemen got out and chased him. He was shot dead as he was running away. His mother, Mrs Ivy Soya, told the commission she lost her son when she sent him away to his grandmother's home in Despatch, following an incident in which police opened fire at his school in Port Elizabeth

Soya, who said she had attempted suicide several times since July 25, 1985 — the day of Seuntjie's death — broke down in tears when she told the commission that Seuntjie had been her favourite son

Mrs Notayiti Ndotshayisa broke down when she told the commission that she had gone home on September 24, 1985 to find her husband, Melvin, dead

She said, earlier that evening, police had gone to her home demanding to see their boys. When her husband told them that they did not have boys, the policemen entered their daughter, Norita's, room and

assaulted her, said Ndotshayisa

She said that when her husband tried to intervene, he was shot in the knee and she fled from the house. She returned to find him dead after hearing a loud gunshot from the house

She told the commission that later that night, about seven policemen went to her home to find out what had happened

Four men testified to an event on April 18, 1985 in which police opened fire on a group of pupils, killing four and injuring

two. One of the survivors of the attack, Lulamile Peter, said he and a group of friends had been on their way home after playing on their school field when a municipal truck loaded with branches and leaves stopped next to them. The driver got out and fired two shots in the air. Two more policemen jumped out from under the branches and opened fire at them

Mr Henry Sauli had been waiting for a bus home from

work when he saw two men in uniform getting under the branches. He ran home to warn the children, he told the commission

He went home first and dropped off his bag, but as he left his house he heard shots ring out. Mr Msokoli Nqandu lost his son in the attack. At the scene of the shooting police would not let him near his injured son. In hospital Xohsile was placed under police guard and before he died "I could not see nor touch him," Nqandu said

The commission will hear testimony related to the Langa massacre of 1985 today



TRC to subpoena seven generals

Howe van 27/8/96 (252)

By Wagheed Misbach
Political Reporter

THE Truth and Reconciliation Commission is to subpoena seven retired police generals to appear before the commission regarding human rights violations during the apartheid era.

The TRC has already prepared subpoenas for generals Basie Smit, Krappies Engelbrecht, Johan le Roux and retired commissioners Johann van der Merwe, Mike Geldenhuys and Johan Coetzee.

The seven are expected to make a joint submission to the commission.

At last week's special hearing for political parties, National Party leader Mr FW de Klerk said his party took political responsibility for past apartheid abuses, but that the leadership of the former SA Defence Force

Retired generals will be required to give evidence on apartheid crimes

and SA Police would have to provide "details of specific" incidents in which the previous government was involved.

This week, reports indicated that Smit would be forced to testify before the commission as early as next month.

Smit was allegedly involved in supplying weapons to the Inkatha Freedom Party and also in fraud, using police funds, according to testimony in the trial of Vlakplaas commander Eugene De Kock earlier this year.

The seven generals have already become involved with the TRC by supporting 22 policemen who have applied for amnesty. The officers also admitted to a number of human rights violations.

All alleged perpetrators of abuses

have until the end of the year to apply for amnesty. Deputy President Thabo Mbeki told the commission last week that the Government was not considering legislation to extend the cut-off date.

TRC deputy chairperson Dr Alex Boraine said last week that the generals would only be subpoenaed as a "last resort".

Boraine said the generals were not the only ones targeted, but that former SADF members who had participated in cross-border raids into neighbouring countries would also have to testify.

Former state president Mr PW Botha might also be subpoenaed. However, Botha is on record as saying he will not do so, even if forced by law.

Baby's death in massacre ignored, says witness

Stones placed in hands of victims

A WITNESS has told the Truth Commission he saw a baby of about four months who had been shot dead by police during the Langa massacre.

This directly contradicts a finding of the Kanne Meyer commission of inquiry into the shootings.

Ambulance driver Jacob Berry told the Kanne Meyer Commission, which investigated the Langa massacre shortly after it happened in 1985, that he had seen the body of a baby covered with a blue blanket in a sink in a sluice room at the Uitenhage provincial hospital on the day of the massacre.

In his report, Mr Justice Donald Kanne Meyer dismissed this as evidence that the baby had been killed during the shootings, saying the baby had been suffering from gastro-enteritis and had already been extremely ill when arriving at the hospital.

But one of Mr Berry's colleagues, Vuyisile Michael Gogo, told the Truth Commission's human rights violations committee yesterday that he had driven one of about nine ambulances that were eventually allowed to go to the scene of the shooting, and he had seen a baby girl who had been shot in the temple.

She was already dead "That is what disturbed me the most - I was extremely disturbed."

"Above her eye was a hole, smaller than a 5c piece, and she had her hand on it. So I moved her hand."

"A policeman standing close spoke in Zulu and told me to do my job. I responded that he should not bother about me but must do his own job."

The exchange had developed into an altercation, and the policeman had taken his gun off his shoulder and threatened him.

"He said he would cause me to be like the others on the ground", Mr Gogo said. "If I had a knife I would have attacked him. I said, 'Don't you have any compassion? Can't you see this is a baby?'"

The baby had been "small, not even able to sit up yet", he said in response to a question from the commissioners.

He had treated other wounded people and had walked past the baby on his way to and from the ambulance.

At the hospital he had heard staff say a baby had been shot. His partner had gone inside to check and had told him it was the baby he had seen.

Mr Gogo said he had not mentioned the baby in his written statement to the Kanne Meyer Commission because the police captain who had been writing it down had stopped at that point.

"When we got to that part we were stopped and told, 'That is sufficient'."

However, he had mentioned the baby during oral evidence to the commission. "I told them everything," he said.

THIS is what some of the witnesses testifying to the Truth Commission had to say about "Langa massacre" in which at least 20 people died.

"Police started shooting and people started running in all directions.

"As I was trying to run away I was hit in the back, and left arm, left thigh and foot.

"All the injured people were sprayed with a hose, but stones were put into our hands first and then photographed". - Thozama Jennifer Mdyesha

"The shooting continued and lasted for about 30 minutes. During all this time I was semi-conscious.

"One Zulu-speaking policeman came to me carrying a firearm, a rifle.

"He pushed the rifle into my mouth and asked whether he should shoot me to death. As I was semi-conscious I could see other policemen collecting stones and placing them in the hands of the fallen victims". - Xolani Maxin Mzimzi

"A rastafari, named as a comrade from Port Elizabeth, appeared to be negotiating with police to let the people through.

"The rastaman moved up and down between the crowd and the police three times. And then a policeman stood on the Hippo/Casspar and said 'Shoot him dead' (Shoot him dead).

"I heard shots. When I looked around people were lying on the ground". - Sylvia Vuyelwa Keste.

"I saw a rasta person wearing a dashiki coloured gown in black and gold and he had a Bible in his hand.

"This rastaman was leading the march. He moved towards the police but before he could reach them I heard shots". - Zixolisi Matthews Maseti

'Boy on a BMW' returns to tell tale of carnage

THE "boy on the BMW bicycle" who was riding in front of a crowd of mourners trying to march from Langa township outside Uitenhage in 1985, came to the hearings to tell how he saw police shoot dead at least 20 unnamed marchers.

He also told how he was kicked by the police after the shooting as he lay on the ground, severely injured.

And in more dramatic testimony about the "Langa massacre" of March 21, 1985, to the human rights violations committee in a packed town hall here yesterday, two ambulance drivers told how they were dismissed by the then Dias divisional council for telling the Kanne Meyer Commission the truth about what they had seen after the shootings.

One of them, Jacob Berry, testified that while he had been treating one of the wounded at the scene, he had heard a plainclothes detective say in Afrikaans "You see, you kaiffirs don't want to listen, look how the boers are shooting you in our m-r".

Later, at the Uitenhage provincial hospital, he had seen a man leaping from one of the bodies lying on the sluice room floor.

"I thought he needed help, and there was a doctor Isaac Iloen standing at the door. I asked him to save the patient and he responded by saying in Afrikaans, 'Ag, he is going to die anyway'."

Mr Berry's colleague, Vuyisile Michael Gogo, testified



JOHN YELD reports from Uitenhage

that another doctor, whom he named as a Dr Nel, had been at the scene of the shootings but had not bothered to assist or attend to the victims lying on the ground.

"He was just smoking one cigarette after another. I was surprised," he said.

In 1985, Mr Justice Donald Kanne Meyer found that no one was to blame for the Langa shootings, although he said they could have been avoided had police not interfered with funeral arrangements after deaths during violent protests in the days leading up to the march.

According to his official report, 20 people died and at least 27 were injured in the shootings, but community leader Fikele Kobese told the Uitenhage hearing that Langa residents disputed those figures. They believed at least 43 people had died as a result of being shot.

The "boy on the BMW" -



PAINFUL MEMORIES: Fundile Gqubule, who lost both legs after being shot in the "Langa massacre" of 1985, and an unidentified companion at the scene of the shooting

Kwanele Moses Bucwa, who was 17 at the time - told the commission that the crowd of Langa mourners had wanted to attend a funeral in KwaNobuhle township on the opposite side of Uitenhage, and had formed rows of five "as a sign of peace and orderliness".

"While we were proceeding slowly, singing Nkosi Sikelele, I was riding a bicycle in front of the crowd and my right arm was lifted as a sign of respect to the national anthem."

The police officer in charge, a Lieutenant Pouché, gave the order to shoot to his men, who were standing on top of two Hippo armoured vehicles.

"The first shooting was the cause of my injury. I was hit on the left side of the head and I fell on the ground, landing on my collarbone, which got fractured," Mr Bucwa said.

"After I was shot they came and kicked me to see if I was still alive. I pretended to be dead."

"They were checking on other people, and they were still shooting people to death."

At the Kanne Meyer Commission, police had claimed he was not at the scene, Mr Bucwa said. Doctors had been unable to remove the bullet from his head.

"It's still there, and my legs is not working properly. I wish I could get proper treatment and I would like a hall built in the location in commemoration of this incident."

He had never got his bicycle back, he said in response to a question from the commission.

Mr Berry and Mr Gogo both testified that the senior officials of their ambulance service had tried to pressure them not to reveal the full truth of what they had seen.

Both had later been dismissed after testifying to the Kanne Meyer Commission, ostensibly for insubordinate behaviour and for "embarrassing" the service.

While testifying to the Kanne Meyer Commission, Mr Berry said, he had got a message during a lunch break that he had been dismissed and that he had to bring his uniform back immediately.

He asked the Truth Commission to investigate this so that he could be reinstated.

He said he also wanted to be compensated for his unfair dismissal from the ambulance service.

He was loudly applauded by the capacity audience of about 400 when he suggested that a memorial to the dead be erected in the public square outside the town hall.

"They (the Truth Commission) should find out why the perpetrators of that time got promotion and golden handshakes, and why are there still those in a position in the judicial system in South Africa? Why is Kanne Meyer still there?" he asked.

The commissioner responsible for the Eastern Cape, Bongani Finca, said that far from being an "embarrassment", the two ambulance drivers were "assets to this nation" because they had stood for the truth.

"We will follow this (the dismissals) up. There was a time in this country when standing for the truth cost something. Those who became comrades after 1990 sometimes forget that," he said.

The hearing ended with a visit by the committee to the site of the massacre - a bridge over a ditch on the Maduna Road leading from what was then the Langa township towards "white" Uitenhage.

In a brief but poignant moment of remembrance, members of the Truth Commission's human rights violations committee, their staff and victims of the shooting and their families joined hands, listened to a prayer and sang a hymn.

It's time to

hear from the perpetrators

To date, the Truth and Reconciliation Commission has heard victims' harrowing tales. Now the other side must be counted

(252) Nov 28/8/96

By ROBERT BRAND

Where is the Truth and Reconciliation Commission going, and where does that leave justice?

Since it started its work in April, the commission has heard hundreds of accounts from people who have suffered grievously during the past three decades. The emphasis has been squarely on the victims.

Thus, commission vice-chairman Dr Alex Boraine maintains, was the correct way of doing things and in line with the commission's statutory mandate.

But, so far, there has been no quid pro quo. The ones who caused the suffering have remained silent, and there has been no pressure on them to account for their deeds.

The submissions by political parties last week, however, marks a turning point. While maintaining the focus on victims, the commission signalled its intention to be more forceful in its information-gathering role.

"One of the constant cries that pierced our ears was the cry from victims saying 'we want the truth, we want to know what happened,'" commission chairman Archbishop Desmond Tutu said.

"We will soon start hearing from those who were named as perpetrators."

The new approach rests on three pillars, Boraine said.

■ "Institutional hearings" such as last week's political party submissions. Other institutions, including the judiciary, the medical profession and even the media will be called to account for their role in the maintenance of the apartheid system.

■ Inviting and, if necessary, subpoenaing alleged or suspected perpetrators of human rights violations to provide information which could help the commission in its investigations.

The commission initially hoped that perpetrators would come forward voluntarily, through the amnesty process to give information. But this has not happened. By far the majority of the almost 2 000 amnesty applications are from people already con-

victed and jailed, in other words, from people who could not provide new information.

The commission has now drawn up a list of people it believes could provide helpful information, and they will be interviewed and then called to testify at a public hearing.

If they refuse, they will be subpoenaed, Boraine said.

Subpoenas have already been drawn up for seven former police generals, including former commissioner Johan van der Merwe. These will be issued tomorrow, the head of the commission's investigations unit, Dumisa Ntsebeza, confirmed.

Others to be called include policemen who were named during public hearings as perpetrators of human rights abuses, and figures implicated in high-profile trials such as the Eugene de Kock and

The new phase will rest on three pillars

Motherwell bombing trials

■ Lastly, the commission has decided to "expedite" the amnesty applications of former Vlakplaas commander Dirk Coetzee and his henchmen Almond Nofemela and David Tshikalanga, charged with the murder of ANC attorney Griffiths Mxenge. Their applications will be heard before the start of their trial in December, Boraine said.

By law, the commission is obliged to give priority to applications from people in jail, and all the applications heard so far have been from convicted prisoners.

Although Coetzee was one of the first to apply for amnesty, it was unlikely his application would be heard before next year, by which time he may already have been convicted for the Mxenge murder.

Although KwaZulu-Natal attorney-general Tim McNally's decision to prosecute Coetzee had nothing to do with Coetzee's amnesty application, the commission feared it may scare other per-

petrators who might think they would also be prosecuted if they applied for amnesty.

By "expediting" Coetzee's amnesty application, the commission hopes to send a signal to perpetrators that the way to avoid prosecution is to apply for amnesty.

Applications by other former Vlakplaas policemen would also be prioritised, Boraine said.

Thus, members of the commission privately admit, would probably make the attorneys-general "hopping mad".

Many of the amnesty applications to be "expedited" are from former policemen who have been under investigation, especially by Transvaal Attorney-General Jan D'Oliveira's special investigating unit, and are on the verge of being arrested and charged.

The perception exists that these perpetrators are in some way escaping justice just as the net is finally closing around them.

But those who criticise this procedure are forgetting the very reason for the establishment of our Truth and Reconciliation Commission, which, as Boraine pointed out, is unique precisely because it provides a mechanism for the granting of amnesty to perpetrators of human rights violations.

Disposing of Coetzee and others' amnesty applications before they go to court might undo months' painstaking work by various attorneys-general, but it might also save the cost and work of lengthy trials, Boraine said.

Would justice be served if Coetzee gets off scot-free for a murder to which he has confessed, or if other policemen escape the courts by being granted amnesty just as the noose is tightening?

In a philosophical sense, patently not.

But to say that justice is being subverted because the commission is getting in the way of the attorneys-general is to ignore the clause in the Constitution which guarantees amnesty for wrongdoers on both sides of the political conflict, and provides for the establishment of a mechanism to grant amnesty.

That mechanism is the Truth and Reconciliation Commission.

TRC witnesses contradict inquiry's findings

(252) Star 28/8/96

By DAISY JONES

Uitenhage - Witnesses before the Truth and Reconciliation Commission yesterday contradicted the findings of the Kannemeyer inquiry which investigated the 1985 Langa massacre

According to the inquiry's findings, 20 people were killed and at least 27 wounded on March 21 1985 when police opened fire on mourners on their way to bury four unrest victims

The inquiry accepted the police's explanation that they were trying to prevent the crowd from entering Uitenhage, where it was believed they were going to kill whites. There had been no deliberate delay in allowing medical aid to reach the wounded, no deaths had been concealed, and no baby

had been killed, the inquiry found. Community representative Fikile Kobese told the TRC in Uitenhage yesterday that residents had reported 34 deaths.

Kanele Moses Bucwa said he had been riding his bicycle in front of the crowd when he was shot in the head. He said the order to shoot was given by means of a hand signal, contradicting Mr Justice D D V Kannemeyer's finding that a Lieutenant Fouche had indicated that the crowd should disperse, then fired a warning shot, then issued the order to fire.

Bucwa added that after he and others had been shot, police had assaulted victims on the ground and chased injured people.

Ambulance driver Vuyisile Goqo, who testified before the inquiry, said he had found a dead

baby girl, about 4 months old, at the scene of the shooting. He had been ordered by a policeman to "do your work, leave that child".

His colleague, Joseph Berry, told the TRC he had seen the body of a baby covered in a blue baby blanket at the hospital. Berry also said police had held up his ambulance for about an hour at the entrance to Maduna Road, where the shootings took place. He added he had seen a pile of bodies inside the hospital and one of the people was still breathing.

A Dr Viljoen, who was standing in the doorway, had refused to save the man, saying "Ag, hy sal maar dood gaan" (Oh, he's going to die anyway).

The commission will wrap up its human rights violations hearing in Uitenhage today.

Fivaz warns on go-slow

(252)
Bonile Ngqiyaza

DISCIPLINARY measures would be taken against Popcru members who disrupted policing while the SAPS was involved in an "all-out fight" against crime, commissioner George Fivaz warned yesterday.

He was reacting to the union's expressed intention to launch nationwide sit-ins and a go-slow on Monday unless he resigned.

Fivaz said an official note, warning of the legal implications of any disruption of police services, would be served on Popcru, and he accused the union's executive of trying to hold the community hostage.

He reminded Popcru that unions in the SAPS had committed themselves to the Sword and Shield plan and to rendering quality service.

Popcru's "new and inexperienced" executive was ignorant of union ethics and the negotiated agreement for conducting police labour relations, Fivaz said.

BD 28/8/96

Findings of massacre inquiry contradicted

OWN CORRESPONDENT

UTENHAGE: Witnesses before the TRC yesterday contradicted the findings of the Kannemeyer inquiry that investigated the 1985 Langa massacre

The inquiry found that 20 people were killed and at least 27 wounded on March 21, 1985 when police fired on mourners going to bury four unrest victims

The inquiry accepted the police's explanation that they were trying to prevent the crowd from entering Uitenhage, where it was believed they were going to kill whites

The inquiry also found there had been no deliberate delay in allowing medical aid to reach the wounded, that no deaths had been concealed and that no baby had been killed

Community representative Mr Fikile Kobese told the commission that residents had reported 34 deaths.

Mr Kanele Moses Bucwa said he had been shot in the head while riding his bicycle in front of the crowd. He said the order to fire had been given by means of a hand signal, contradicting Judge D D V Kannemeyer's finding that a Lieutenant Fouche had called on the crowd to disperse, then fired a warning shot and then issued the order to fire

Bucwa added that after he and others had been shot, police had assaulted victims

CT 28/8/96 (252)

on the ground and chased injured people. Ambulance driver Mr Vuyisile Gogo told the inquiry he had found a dead baby girl, about four months old, on the scene of the shooting. He had been ordered by a policeman to "do your work and leave that child"

His colleague Mr Joseph Berry said he had seen the body of a baby covered in a blue baby blanket at the hospital. He also told the commission his ambulance had been held up "for about an hour" by police at the entrance to Maduna Road, where the shootings took place

Berry added that he had seen a pile of bodies at the hospital and that one of them had still been breathing

A doctor Viljoen, who was standing in the doorway, had refused to save the man, saying "Ag, hy sal maar dood gaan" (Oh, he's going to die anyway)

The commission will complete its human rights violations hearing in Uitenhage today with testimony relating to the UDF-Azapo conflict in the mid 1980s

● The commission said it would not remove its banners and posters from the Uitenhage town hall, where the AWB was to hold a meeting last night

AWB members were expected to start arriving at the hall about 6pm. The town is a right-wing stronghold with an active AWB branch — Sapa

800 forced to hide as war was waged on UDF

ARG 29/8/96

(252)

The Argus Correspondent

UITENHAGE - More than 800 members of the United Democratic Front went into hiding between 1987 and 1989 as the state and Ama-Afrika waged war against the organisation

Former UDF leader Mncedisi Sitoto told the Truth and Reconciliation Commission in Uitenhage yesterday that the UDF had had to come up with strategies in the 1980s to protect itself and the people against the state's repression strategies

He said during the conflict with Ama-Afrika, homes of UDF members and relatives were attacked

More than 800 people, including the leadership, went into hiding in Uitenhage and Port Elizabeth and were forced to operate underground

Mr Sitoto, now the Uitenhage branch secretary-general for Sanco, said Ama-Afrika became defunct after peace was restored in 1989

He said some Ama-Afrika members like Timothy Jantjie joined the PAC

At the start of the hearing commission chairman Bongani Finca said the commission had statements only from UDF members and no statements from Ama-Afrika

Mr Sitoto said having observed in 1985 how their people were butchered during the Langa massacre, the UDF leadership believed peaceful methods of resolving conflict in their small town should be intensified

Mr Sitoto said that during 1986 one of the methods the UDF leadership opted for was a consumer boycott

It was noticed at that time that state repression was taking a new turn

At this stage there was a re-imposition of the second State of Emergency and forceful removal of people from Kabah location to Kwanobuhle

He said the police wanted to crush the UDF because it was demanding the release of Nelson Mandela and other political prisoners, the unbanning of political organisations and the return of exiles

He said it was clear from 1987 to 1989 that people were prepared to sacrifice their lives for liberation

He appealed to the victims present in

court to explain that this was not a case of black-on-black violence

It was a strategy designed so that volunteer forces or vigilantes made their services available to be used by the enemy

It was an onslaught to be inculcated in the minds of the people

Mr Titoto said there was also Third Force involvement

Questioned by the commission, Mr Sitoto said he had worked with Mr Jantjie to resolve education problems in Uitenhage and that Mr Jantjie was now a member of the PAC

He said that when the UDF found at the time that the enemy was interfering with the struggle, the organisation discovered some of its members, like Mr Jantjie, were distancing themselves from that struggle

He said on January 4, 1987, Kwanobuhle was surrounded by Caspirs and it was

clear that it was the intention to crush the UDF

The UDF had also noted a well co-ordinated force of people walking in front of police vehicles, and this forced the UDF leadership to go into hiding as it meant that if they were found they would be killed

He said the leadership which was in hiding appealed to those who

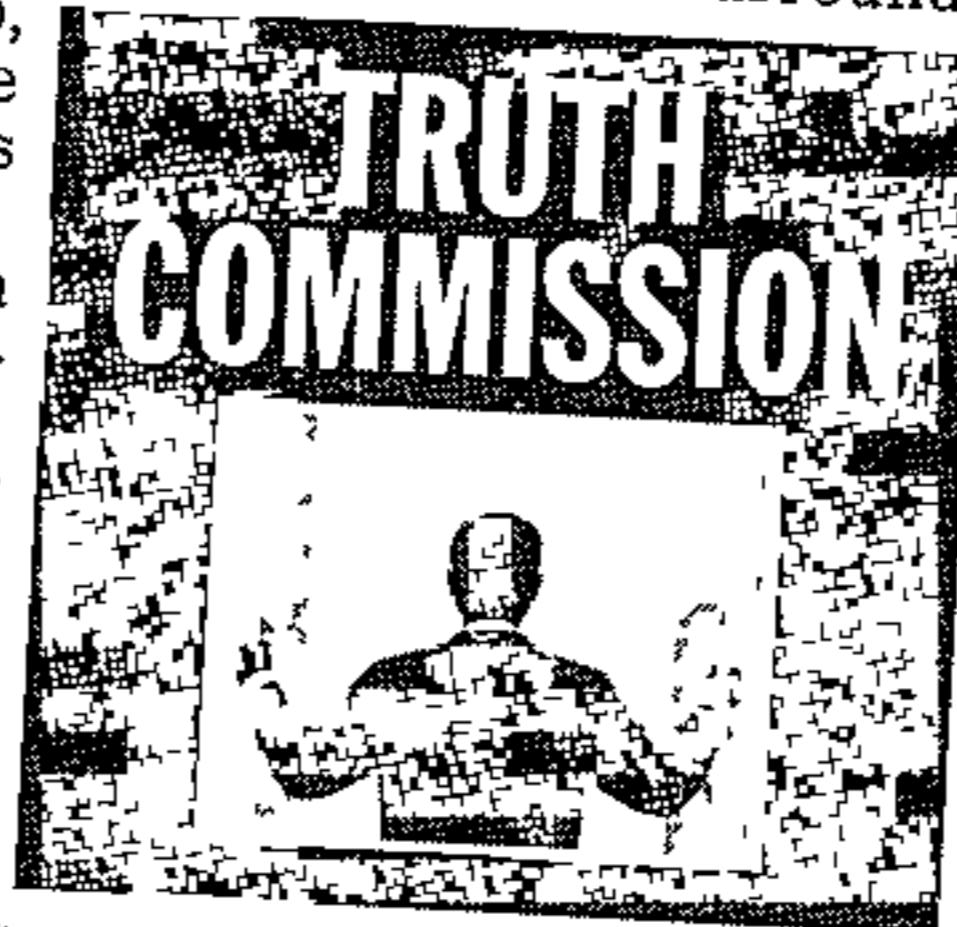
were affected not to hit back as some of the people who had marched before the Caspirs had been forced to join, and they were innocent

He said in January 1987 a group calling itself the Concerned Group of Uitenhage emerged, but the majority of these people later called themselves The Africans

He said another thing which concerned the UDF when some of UDF people were detained was that members of the Ama-Afrika group were not detained

Mr Sitoto said one of the psychological methods used by the state was to project the Uitenhage community as divided by giving a feeling of security to those who decided to live in Khayelitsha, which was allegedly a stronghold of Ama-Afrika

However some who moved to this area were not necessarily Ama-Afrika but had merely gone there because of housing problems Mr Sitoto estimated the number of people who went into hiding in Uitenhage at 300 and in Port Elizabeth at 500



HRC ready to take its first steps

(252) Ryan 29/8/96

BY KERRY CULLINAN

The Human Rights Commission has made an extremely slow start. It is under-funded, understaffed and under-researched. Yet its role is still critical

Dogged by apparent inertia and a poor media image since the nomination of its 11 members was approved in April last year, the Human Rights Commission (HRC) says it is finally ready to start dealing with hundreds of complaints from citizens about human rights violations.

Despite the resignation last month of one of its most distinguished commissioners, Max Coleman, for "personal reasons", chief executive officer Louisa Zondo is confident that, by the end of the year, the commission will be a force in the national agenda.

Zondo, who joined the HRC in June, says the commission plans to employ 83 people, including three or each region, by the end of October.

Unfortunately, the HRC's public appearances so far have been marred by controversy.

Chairman Barney Pitryana clashed with academic Dennis Davis in a live television debate, after Davis criticised the apparent slow progress of the HRC and noted that some commissioners lacked old track records in human rights. Pitryana responded by calling Davis a racist.

Pitryana then attacked the *Sunday Times* for conducting a "vendetta" against fraud accused Henry Isaacs after the newspaper published an article about Isaacs' alleged offences.

Pitryana describes the Davis incident as personal and "not a reflection of the position of the HRC". Of

the *Sunday Times* clash he says the controversy "flared up rather more than it should have due to some communication mishaps".

He "contests" the view that the HRC has a poor media image, but adds that "it is unfortunate that certain media focus on relatively minor incidents of conflict to the detriment of focusing on the achievements of the commission".

One of the key criticisms levelled at the HRC is that it has taken an inordinately long time to set itself up. For example, a full six months passed between parliamentary approval of nominations for commissioners in April 1995 and the appointment of commissioners on October 1 1995.

Media focus on minor incidents

Jeremy Sarkin, chairman of the independent Human Rights Committee, says the delay was caused partly by "commissioners debating which of them should be full-time and which part-time, salary packages and where the head office should be".

The next hurdle was relocating offices. Says Pitryana "Our current premises are our third in six months. There is a ripple effect involved as, without a permanent home, no communications systems can be effective and this in turn prevents the other systems from being implemented effectively".

Cape Town-based commissioner

Rhoda Kadale, who moved into offices on August 1 after operating from her home for 10 months, is more forthright. She blames the "endless red tape and painfully slow tender procedures in the Public Works Department" for the delay.

"I can't even give my guests tea because you must get three quotes for crockery, one must then be approved and then they buy the stuff in Pretoria and send it down," she says.

Pitryana is optimistic that "now that we have the new departments and the new staff we have been needing, we are looking forward to processing the hundreds of cases we have already received".

However, there are only seven full-time commissioners, two of whom - Coleman and Chris de Jager - have resigned and need to be replaced. Much of the future success of the commission rests on the shoulders of new staff such as Zondo, the former deputy director of the Constitutional Assembly, who is reputed to be dynamic and hardworking.

Pitryana says the HRC's priority over the next six months is "to solve cases amicably and through referrals. Our legal research and monitoring will be essential for the interpretation of human rights test cases and we will be building a strong relationship with the Constitutional Court".

Zondo adds that the HRC will also start a public information campaign and is holding discussions

with the education department about how to introduce human rights issues into school curricula.

Commissioner Anne Router, who convenes the HRC policy and planning standing committee, says "Universities are helping to develop policy proposals on 'human rights items that need urgent attention'. These include cultural rights, education, equality, language, the environment, children's rights, freedom of expression and rights of the disabled. The Centre for Policy Studies has prepared policy documents on undocumented migrants.

However, there have been murmurs of discontent from some quarters about the selection of these issues. One source said Router was devoting too much attention to "softer" human rights issues such as culture and language. Life-and-death issues - inadequate policing and justice systems as well as political violence - were coming off second-best.

Router says the issues were selected either "because they are vital in the Constitution" or because they are "problems that may arise and cause a crisis, such as migration". She adds that the commission is in the process of appointing researchers to look at socio-economic rights.

But Sarkin is concerned about "the lack of a systematic policy on

choosing human rights issues". He says commissioners have told him that they do not have a "methodological" approach to determine which issues to take up" and have also not conducted any research to determine which issues are most pressing.

Kadale points out that when the Australian HRC first began, it too took on complaints randomly. "You can only know what is important to people once you have received a wide range of complaints and can begin to see a pattern."

For Sarkin, the key human rights areas are "safety and security, correctional services, juvenile justice and violence, especially in KwaZulu-Natal and in the taxi industry".

Priority to solve cases amicably

He stresses that the HRC is "the most important human rights organisation in the country" and it should be supported in its "critical role to develop a human rights culture".

Bongani Majola, national director of the Legal Resources Centre, says the cases his organisation encounters most often involve the "unequal treatment of women, especially in the Eastern Cape and KwaZulu-Natal, children's rights, issues involving land, housing and development and relations between the police and the poor".

"I don't know how the HRC

would take these up, but a massive education campaign is needed to educate women about their rights and communities about the constitutional limits of police powers," he says.

So far the HRC has initiated two national investigations. It is investigating prison conditions, following its initial inquiry into alleged abuses at Krugersdorp Prison. The second investigation involves the ill-treatment of children in the juvenile justice system and street children.

Router says every complaint is "logged, given a number and referred to our legal department". They are then sometimes referred to other state structures, such as the Public Protector.

She says "there are 15 different areas where there is overlapping jurisdiction" between different state departments and commissions. This causes confusion and the government has been asked to pay more attention to strategising the presentation of its human rights policies.

The internal problems of the HRC aside, it is questionable whether the government is giving the commission sufficient support. De Jager resigned about eight months ago but his successor is yet to be chosen by parliament.

In addition, the approximately R12 million expected to be allocated to the commission for 1996/97 is "far from adequate", says Zondo, who adds that the HRC will look elsewhere for funds as "it is quite normal for an institution such as ours not to rely solely on the state coffers".

■ Cullinan is a journalist for *Isasa's Democracy in Action* magazine. This article was first published in the latest edition of *Democracy in Action*.

UDF hounded by Azapo, police

UITENHAGE: Alliances between Azapo and the police were exposed in yesterday's TRC hearings where witnesses said UDF supporters had been hounded by police and Azapo.

A DISTRAUGHT woman had to be carried out of the Uitenhage Town Hall yesterday as a witness told how his dying brother had yelled for his mother's help while he was being assaulted by masked policemen.

The policemen held the boy's mother back with guns, the Truth Commission heard.

Mr Thando Mpambani, brother of Luvoyo Mpambani who was 15 when he died, said their mother died last year "as a result of her son's tragic death".

Luvoyo had been on his way from school on the afternoon of August 15, 1987, when he was beckoned to by people wearing balaclavas in a blue car, Thando

said.

The boy tried to escape, but was shot in the back and then assaulted by the police. He said the men later turned an ambulance away from the scene.

Thando knows the name of one of the policemen.

"Makeleni and his comrades should be taken to task, and the law should be allowed to take its course," he said, adding that the family still held a grudge against his brother's murderers.

Other witnesses yesterday related stories about victims of the Ama Afrika faction, which was allegedly used against the UDF by the security police in the Uitenhage area, and an Azapo

group, which was allegedly used against the UDF in the Port Elizabeth area.

ANC member Mr Vusumuzi Solani was woken by "comrades" on the morning of December 28 1989 to attend talks between the UDF/ANC affiliates and Ama Afrika, his mother Nodoli told the TRC.

She followed him, but teargas was thrown at her and she went home. Two weeks later the police called on Nodoli and took her to a spot in a veld, on the footpath to Despatch. She broke down as she tried to explain to the commission that she had recognised her son from his clothes, but his body had been decomposed, with "only the bones" remaining.

Mr Themba Rawula nursed his son, a member of the township youth patrol, for over five months after Zukile, 19, was shot in the penis, head and body with

birdshot.

On November 16, 1987 Rawula was taken by police to the mortuary to identify his son. This time the youth's throat had been cut and his eyes had been gouged out "like an animal".

The police ordered that the burial take place only after two weeks, and offered a police escort, which Rawula refused. During the burial Ama Afrika "took out knives and were going up and down the cemetery".

Mrs Nombuyiselo Ndungane said the police made "a laughing stock" of her son's death, and had tried to ban his funeral because under the state of emergency any group of more than five would have constituted an illegal gathering.

Her son, Lungile, had been guarding a UDF leader's home on

July 9, 1986 when the guards were attacked by Azapo members, Ndungane testified.

When she tried to open a case against her son's killers, the police said there could be no case because the ANC and Azapo were at war.

Instead she was told to identify her dead son's body — "the mince-meat". Ndungane declined, but her relatives returned home crying. Lungile had been disembowelled.

Mrs Nomathemba Sibeku was told by relatives who identified her son Khathazile's body, that the boy had been hacked to death, and his "parts" and eyes removed.

Khathazile had been a supporter of the Uitenhage Youth Congress, which was "under the UDF" — Own Correspondent



ANC manipulating state agencies, IFP to charge

THE IFP's submission to the Truth and Reconciliation Commission (TRC) next week is expected to include a charge that the ANC is manipulating government security agencies to target IFP supporters in the continuing KwaZulu-Natal conflict.

IFP national spokesman Mr Ed Tillett said yesterday the party would ask the commission to investigate the murders of regional IFP leaders.

The ANC's submission to the TRC last week did not mention its role in the KwaZulu-Natal violence and its "programme" to eliminate IFP leaders.

"We want the ANC to come clean and tell us who within their ranks has been involved in issuing instructions to foot soldiers to kill IFP leaders.

"We will also focus on the perception that certain state

agencies have been manipulated and become extensions of the ANC in the region of the IFP."

He said the IFP submission, which was still being drawn up, would try to balance the public record by giving the party's perspective on how a low intensity war had developed in the province and parts of Gauteng.

It would look at the cordial relations between the IFP and the ANC before a "fateful" meeting between party leaders in London in August 1979.

The submission was also likely to include a comprehensive list of IFP leaders who had been slain in the violence.

Tillett said it was still unclear whether the IFP would support the call by parties at last week's hearings for the amnesty cut-off date to be extended beyond December 6, 1993. — Sapa

Policeman 'liked to shoot his victims in the back'

OWN CORRESPONDENT

DURBAN. A KwaZulu policeman, who favoured shooting his victims in the back, had claimed to have killed 30 people.

Sergeant Siphwe Mvuyane's name has cropped up regularly at the Truth Commission's hearings in KwaZulu-Natal.

Mr Mfanafuthi Khumalo yesterday described how he backed away from the policeman rather than be shot in the back.

Khumalo, who was 16 at the time of the attack, told the commission he had been hounded by Mvuyane between 1991 and 1993. Khumalo said Mvuyane found him at a friend's house where he had been in hiding. Mvuyane told him to walk to a

sofa and wait.

"I knew that if I gave him my back he would kill me."

Mvuyane shot the boy in the knee, gave him a knife and told him to stab himself to death.

"I stabbed myself five times and then I threw the knife down. I could not kill myself. He

then shot me in the right arm and I fell down, pretending to be dead," Khumalo said.

After promising Mrs Theresa Khumalo, that he would take her son to hospital, Mvuyane left the child, bleeding profusely, in his car, turned

the heater on and locked the doors. "I had to relieve myself in the car," Mfanafuthi Khumalo said. He was eventually taken to Prince Mshiyeni Hospital and later transferred to King Edward

where he spent almost a year. The attack has left him without the use of his right arm.

Mrs Khumalo said she removed her son from Prince Mshiyeni because Mvuyane went to the hospitals "trying to finish him off".

Commission chairman Mr Richard Lyster said Mvuyane was one of the most notorious policemen employed by the KZP. By the time he (Mvuyane) died, he had claimed to have killed 30 people.

The SAP had started investigations into his activities and had seven murder charges pending against him, Lyster said.

"Yet, he was allowed to continue working as a policeman and was regarded as a hero by the IFP. One KwaZulu minister even went so far as to describe Mvuyane as a good shot."



Former activist 'persecuted after making statement'

DURBAN. Fifteen people were murdered, allegedly by Inkatha members, during a memorial service for slain lawyer Mrs Victoria Mxenge in August 1985, witnesses said at the TRC hearing here yesterday.

The service had been held at a cinema in Umlazi township, south of Durban, after Mxenge had been murdered outside her Umlazi home. Her husband, Griffiths Mxenge, had been murdered

on November 19, 1981.

Five former security policemen, including former Vlakplaas commander Dirk Coetzee, have been charged with his murder.

ANC member and former United Democratic Front activist Mr David Sponono Gasa said men armed with spears and knobkerries had attacked mourners outside the cinema, killing 15 people.

Gasa said he had made a statement to the press, blaming

Umlazi IFP leader Mr Wellington Sabelo, who had since died, for the attack.

Thereafter he had become an Inkatha target. His house had been gutted four days later.

He claimed the attack had been prompted by inciting remarks made by the IFP general-secretary at the time, Dr Oscar Dhlomo, who said on television that he "should be aware that my neighbours were Inkatha mem-

bers and would be angered by my press statement".

Gasa said his wife's health had deteriorated because of the attack and she had died six months later. He wanted Dhlomo held accountable for his wife's death.

Another witness, Mr Josiah Dlamini, testified that he had given permission as manager of the cinema for the memorial service to be held there and afterwards was also targeted, allegedly

by Inkatha members.

Dlamini said he was eventually evicted from the cinema and his equipment was confiscated by the KwaZulu Finance Corporation.

He also claimed two of his sons had been murdered by Inkatha members.

Today witnesses are to testify about the 1987 KwaMakutha massacre in which 13 people, mostly women and children, were shot dead. — Sapa

Hopes other offenders may come forward

First amnesty granted to two murderers

Drew Forrest

THE truth commission has granted its first amnesties to two convicted murderers in a ruling which may encourage other human rights violators to break their silence.

The commission's five-member amnesty committee, chaired by Judge Hassen Mall, decided unanimously this week that the amnesty applications of Boy Diale and Christopher Makgale met the requirements of the Promotion of National Unity and Reconciliation Act.

Diale and Makgale are serving 12- and 15-year jail sentences respectively for hacking and strangling to death a tribal council chairman in Bophuthatswana in 1990.

The truth commission has been hampered by the reluctance of human rights violators who are still at large to seek amnesty and confess their crimes.

Mall said yesterday the "overwhelming proportion" of the more than 2 000 amnesty applicants were in jail. Observers stressed that the deadline for amnesty applications was three months away, on December 6. Given the brutality of the deed for which amnesty had been granted, the ruling could encourage violators who were lying low, particularly gross offenders in the security forces, to come forward.

In its ruling, the committee found

BB 30/8/96
"there was no doubt" that Diale and Mokgale's murder of Glad Mokgatle had been associated with a political objective — a requirement of the amnesty provisions. The aim, it said, had been to regain control of the Bafokeng tribe.

The committee said there was overwhelming evidence that Mokgatle had been killed because he had been appointed Bafokeng tribal council chairman by former Bophuthatswana president Lucas Mangope. "The people of Phokeng looked upon the deceased as a person who was put into position to administer the affairs of the tribe on behalf of the regime, which the Bafokeng people did not recognise and had, over a period of time, resisted."

Diale and Makgale, members of the tribe's action committee, had shared the Bafokeng's "earnest wish" for the reinstatement of their rightful chief, whom Mangope had driven into exile and replaced with an appointee, the committee found.

Mokgatle was killed when he refused to hand over the keys of the Bafokeng civic centre, and the question of the proportionality of the act to a political objective — which the legislation said had to be considered — was an issue during Diale and Mokgale's amnesty hearing.

The committee found that the civic

Continued on Page 2

Amnesty

Continued from Page 1

centre belonged to the tribe, but had been "taken over by the Mangope regime". The tribe could not use the centre without Mokgatle's consent. "The civic centre represented ... the people's aspirations, and they believed that in order to regain control of it, they had to get hold of the keys from who-

ever was in charge," the committee said.

It noted that in sentencing the applicants, the original trial judge had accepted that their offence was politically motivated.

The committee also said two of Mokgatle's sons had told the amnesty hearing that the applicants had acted on behalf of the tribe and had expressed the wish that amnesty be granted. They believed this would foster reconciliation among the Bafokeng.

corruption at the truth commission. — Sapa.

home, Botha expressed a willingness to appear before the commission, but said it would depend on whether he was

joint presentation by Ramaphosa and Smuts Ngonyama, now Eastern Cape economic affairs MEC — Sapa.

Commission may recall accused

(252) ED 30/8/96

DURBAN — If any of the accused in the KwaMakutha massacre trial were found guilty the truth commission would subpoena them to testify before it, commissioner Richard Lyster said yesterday.

Khanyisile Ethel Ntuli, the mother of the supposed target of the attack, UDF activist Victor Ntuli, testified at a commission hearing in Durban yesterday.

She restricted her testimony to later events, including the killing of Ntuli in 1989, because the massacre, in January 1987, is sub judice.

Victor Ntuli was not at home at the time of the massacre. He was later shot dead when a political meeting was attacked, allegedly by IFP supporters.

In a statement to the commission, Mrs Ntuli said no one was

prosecuted for her son's death and she wanted the commission to investigate his killing.

Mrs Ntuli, who escaped the KwaMakutha massacre because she was at Izingolweni preparing for a church function, said she was verbally abused by police when she approached them to investigate the massacre.

She said the station commander at Amanzimtoti, whose name she could not remember, tore up a letter of introduction she handed him, called her a bitch and had her evicted from his office.

She left the police station "confused and shattered", she said.

Her other son, Mbusi Ntuli, also testified before the commission yesterday.

He said that as a teenager in 1986 he was a member of a soccer

team run by the KwaMakutha Youth League Inkatha considered all members of the team to be UDF supporters, he said.

Both the Ntulis said they were ostracised by the KwaMakutha community after the massacre and had to leave the area.

The commission also heard testimony yesterday from the mother of a who was boy allegedly shot dead by police along with several other boys.

Annacletta Mthembu said police in 1986 herded several boys into a house at Chesterville near Durban when they complained about violence by a vigilante group called the A Team.

There was gunfire and all the boys were killed, except one. Her son Joseph Russel Mthembu was among the victims. — Sapa.

08/19

State urged to focus on victims of crime

By SA 30/8/96

(252)



Stephané Bothma

A sum of about R80m collected in court fines and forfeited bail money annually could form the basis of a fund for victims of violent crimes, Defence Policy Institute researcher Lala Camerer said yesterday.

She told a conference on victim empowerment and support at Kempton Park's World Trade Centre that financial compensation was regarded by victims of violent crimes as an important symbol of society's recognition that they had suffered a loss.

Discussing a Bill passed in principle by Justice Minister Dullah Omar for creation of a central fund for victims, Camerer said similar schemes were operating worldwide to ameliorate social damage caused by violent crime. There was no reason why such a scheme could not also work in SA.

Internationally, government compensation rested on the premise that since the State was obliged to maintain law and order, and that crime results

from a failure to fulfil that duty, compensation must be paid accordingly. Usually, she said, only victims of violent crimes received compensation from the State.

Camerer and other speakers said that until recently, little attention was paid to the plight of victims of SA crime. Attention focused on offenders and their rights within the criminal justice process.

"Deterrence rather than restitution is the pivot of SA's justice system and of all those involved, the victim tends to be the most marginalised," she said. The victim was often merely a witness to court proceedings and was considered to be an item of evidence or a non-person.

Camerer believed the victim was made to feel that justice was on the side of the offender and therefore many might resort to retributive action.

However, focusing on the victims may impact on wider perceptions of courts as places where justice is done. While focusing on victims might ini-

tially seem reactive, Camerer believed that mobilising around the victims of crime may yet prove to be one of the most effective ways to curb increasing crime rates in the country.

She said victims had certain emotional and practical needs such as counselling, referral, information on investigations and court procedures as well as compensation.

"Between the initial contact with police and an encounter with confusing court procedures, few provisions or services are available to accommodate the crime victim's need or to reduce the impact of a traumatic experience which leads to secondary victimisation."

"In the interest of preventing crime, the needs of a victim as well as drastic reforms to the victim's position in the criminal justice system, must be addressed as a priority by criminal justice authorities," Camerer said.

The legitimacy of the justice system and the public's understanding thereof must be enhanced to reduce incidences of intense dissatisfaction that lead to vengeful and retributive cycles of crime and violence, she said.

Sapa reports Netherlands justice ministry strategic planning director Prof Jan van Dijk yesterday urged government to set up a state compensation fund for victims of all forms of crime.

Delivering the keynote speech at a two-day national victim empowerment and support workshop, van Dijk warned, though, such a fund should not be government's excuse for not doing anything else to help crime victims.

Urging voluntary public participation to help victims, he stressed that "the ideology of a caring society has proven to be effective worldwide."

He also called for revamping of the justice system, to enable it to be seen to be doing much for victims. If society developed a no-confidence attitude in the judiciary, it would become even harder for people to report all forms of crime.

Objectives of the workshop include defining the scope of police involvement in victim support as the "gatekeepers" to the criminal justice system.

Women tell of torture

(252) Star 30/8/96

By DASY JONES

Kate Serokolo gave birth surrounded by security policemen who refused to leave the maternity ward, and laughed as she screamed out in pain.

Police torturers squeezed Ntombi-anele Zingxondo's breasts in a desk drawer until a "white sticky substance" came out of them.

Serokolo and Zingxondo, who suffered at the hands of the police while in detention, are among the few women who have so far told the Truth and Reconciliation Commission their own stories.

According to research submitted to the TRC, an inestimable number of women who suffered human rights violations in the political context between March 1960 and December 1993 have been unwilling to break their self-imposed silence.

The submission says potential witnesses are afraid to testify to sexual abuse because of probable harassment, and reluctant to override cultural taboos which inhibit frank disclosures about sexual interference.

Many women also perceive themselves as secondary citizens, and thus view their own experiences as less important than those of their male loved ones. Women may also consider their trauma to fit into the private, as opposed to the public, domain, the submission argues.

In light of the paper's content the TRC has accepted it needs to provide a supportive role as facilitator, in addition to its role as forum-provider.

Accordingly, the commission has decided to arrange at least one day of special sittings in each of the provinces for women to relive their nightmares, with the option for witnesses to select special trauma-reducing conditions.

A full meeting of the commission, held in Johannesburg this month, said there was a lot of evidence of abuse against women in the political context, and

Truth body told how police laughed as woman in labour screamed

The decision followed a TRC-organised workshop - held earlier this month at the time of the 40th anniversary of the march to the Union Buildings and National Women's Day - which drew on the contributions of 142 individuals and organisations, the written comments of others and the detailed analysis of women's experience of repression between March 1960 and December 1993, which was contained in the submission to the TRC by Dr Sheila Menzies and Beth Goldblatt.

The commission accepted some "useful suggestions" which came out of the workshop on how to best encourage women to testify.

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Many are unwilling to speak out

Women who are reluctant to speak may opt to tell their stories aided by a group of other women, in private, only to women commissioners - or only with women members of the panel leading evidence, - or a "wise woman" (a person of "courage and fortitude", who is respected in the community, not necessarily known to the victim, and who identifies with the context of the abuse and its effects) may articulate the victim's story on her behalf.

Women would ideally meet commissioners prior to their giving evidence, and choose certain conditions of testimony, Commissioner Glenda Wildschut said.

Other recommendations the TRC have accepted are that commissioners should receive training on gender-related issues, preparatory workshops, especially for rural women, should be held to prepare witnesses to deal with the probing media, for instance, and church women's groups should be engaged to assist women to tell their stories.

Wildschut said in deep rural areas "permission" would have to be obtained

She said many women kept their own stories within the private domain, due to various social and cultural factors.

"(Their stories) must become a public issue, not a private issue," she said.

According to the submission which sparked the TRC's action, "Accounts of women's experience in detention, recorded by the Detainees Parents' Support Committee (DPSC) in 1987, include assault and electric shocks on pregnant women, inadequate medical care leading to miscarriages, teargassing, solitary confinement, body searches and vaginal examinations, rape and forced intercourse with other prisoners, and foreign objects including rats being pushed into women's vaginas. Jessie Duarte and Nonvula Mokonyane speak of incidents where women's fallopian tubes were flooded with water, sometimes resulting in their inability to have children."

The submission, through in-depth interviews with victims, records other abuses against women activists.

A young student was searched under her clothes by policemen, and molested by a state doctor. She was also denied clean underwear, and forced to show her soiled sanitary towels to prison authorities before she was allowed new ones.

Electric shocks were applied to detainees' nipples and genitals. A woman who testified before the TRC said she gave birth in the presence of policemen, to the sound of them laughing at her pain.

The submission says "although pain has no gender, sexual difference shaped people's experience of torture. Men were feminised, the torturers revelled in their 'masculinity' and women were the vehicle for sadistic fantasies".

"In our research there is evidence to

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Stories must become a public issue

as human beings during their interrogations," the report says.

Societal expectations of women were also exploited by torturers, the report suggests.

One woman was told her baby had died, and her husband was in hospital. Another woman was shown a photograph of a smashed car and told her child had been inside.

Women were accused of being irresponsible wives and mothers, neglecting their duties for politics, and one woman was told she was in the Black Consciousness movement to satisfy the sexual needs of her comrades.

Outside of detention, "humiliation of women was at times used to humiliate opponents", the submission goes on to say.

Women were abducted and used as sex slaves by hostel-dwellers, women perceived to be "snobs", like the senior comrades who had deserted them, were gang-raped by an organised youth group of comrades in Sebokeng, and the "A-team" in KwaZulu-Natal reportedly gang-raped women associated with their political opponents.

Even within their own ranks, women were abused.

Women who joined military wings like Umkhonto we Sizwe (MK) and Apla (Azanian People's Liberation Army) had suffered human rights abuses like sexual intimidation and rape while detained in ANC camps, Wildschut said.

But the commission also hopes it will hear from women who perpetrated human rights violations.

Goldblatt, who is a researcher at Wits Centre for Applied Legal Studies, said she was glad the commission had taken her and Menzies's submission seriously and

Truth body gives first amnesties to two killers

(252) Star 30/8/96
By ROBERT BRAND

The Truth and Reconciliation Commission has granted amnesty to two Bafokeng tribe members convicted of murder

They killed a tribal councillor because they said he was a sympathiser of former Bophuthatswana president Lucas Mangope

Boy Diale and Christopher Makgale, who were serving sentences of 12 and 15 years in Odi Prison, are the first offenders to be absolved of their crimes under the Truth Commission legislation

The decision was welcomed by their attorney, Brian Currin, who said it would clear up some doubts about the interpretation of amnesty provisions in the Promotion of National Unity and Reconciliation Act

Currin told Sapa the decision had been communicated to the tribe. However, it was reported today that the men had not yet been released because the prison had not been officially informed

Currin said he was disappointed that the committee's finding had "not been a little more comprehensive" in providing guidelines for future applications

"In my experience, applicants are wondering how the amnesty committee is going to interpret the various provisions of the Act. They (the committee) don't really give us much assistance"

However, the finding had

made it clear that murder, in spite of its gravity, would not be excluded from the amnesty process

Diale and Makgale were the first applicants to appear before the amnesty committee at Phokeng near Rustenburg in May. They murdered Glad Mokgatle in 1990. Mangope had ousted Bafokeng chief Edward Molotlegi and appointed Mokgatle as chairman of the tribal council. Diale and Makgale were part of a group of men who kidnapped the 84-year-old Mokgatle, assaulted him and hacked him to death.

The five-member amnesty committee, headed by Mr Justice Hassen Mall, said the two applications complied with the criteria for amnesty set out in the Act, which requires applicants to make a full disclosure of their offences and to prove that they were associated with a political motive

Although both men had testified that Mokgatle was killed because they feared prosecution, it was clear the murder was committed "in association with" a political objective, the committee found

"The evidence as a whole leaves no doubt that the attack on the deceased was associated with a political objective, that is regaining control of the tribe"

The two men were members of a tribal action committee and believed they were acting on behalf of their people

Amnesty fails South Africa's unforgiven

(252) M+G 30/8-5/9/96

The truth commission says its first amnesty is imminent, but old-guard perpetrators are still reluctant to bare their souls, reports

Marion Edmunds

PRESSURE on Justice Minister Dullah Omar to amend the Truth and Reconciliation Bill and change the rules of amnesty is growing, as dissatisfaction with the process increases among those who served the apartheid government

And while many are deliberately shunning the amnesty limelight, human rights lawyer Brian Currin has spoken out on their behalf

"The amnesty system is not working and the ball is in the court of the minister of justice. The first step he must take now is to ensure that all prosecutions are put on hold pending the outcome of the amnesty applications should the accused want to apply for amnesty. Otherwise people will not come forward."

The arrest of former security operative Dirk Coetzee has compounded the unease of many potential amnesty applicants who fear that by confessing all to the truth commission, they may be digging their own graves

Added to that is the chilling realisation that apartheid leadership is not going to take responsibility for human rights abuses committed in the name of apartheid, as far as they can help it

Just as the truth commission deflected criticism this week by telling the *Mail & Guardian* to address questions to the parliamentarians who authored the Bill, so Omar deflected criticism, saying it was up to the commission to suggest changes to the legislation and the rules if it felt the amnesty process was snarling up. No such proposals, according to Omar, have been received by his department

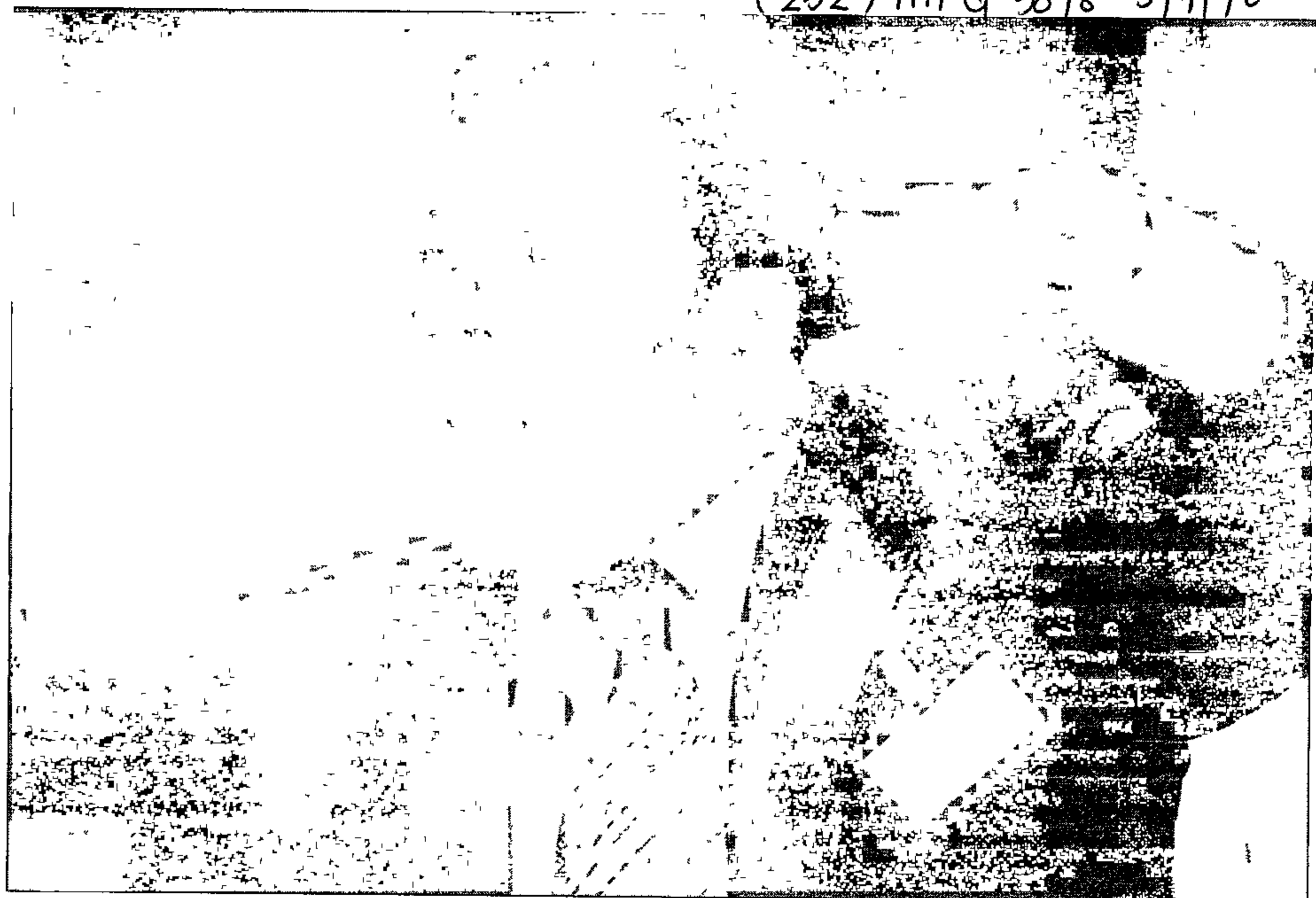
"I do not understand what responsibility the TRC cannot take. Any suggestion or proposal or recommendation emanating from the TRC will be considered," Omar said

Sources within the African National Congress Justice Committee indicate that there are informal discussions on a possible amendment, but it would be up to Omar to initiate such changes

But even if Omar deflects the media this week, he will shortly have to face a troubled Freedom Front leader, General Constand Viljoen

"I personally feel the whole idea of amnesty needs to be re-examined even if this means disregarding the legislation," Viljoen said. "Look what happened to Coetzee. There is a major problem of the credibility of the system. The amnesty system is about reconciliation and we are fumbling with it, putting reconciliation at risk," Viljoen said

In sharp contrast to Viljoen's pro-



Bereaved parent: Josiah Dlamini said his son was murdered at the hands of the IFP after he allowed his cinema to be used for a memorial service for Victoria Mxenge

PHOTOGRAPH BY DAVE BUZZARE

KwaZulu-Natal skeletons creep out of the closet

Ann Eveleth

JOSEPH MDLULI'S death in detention in Durban 20 years ago made international headlines. His son, who was in detention at the time, later told a judge during the trial of the late Harry Gwala he had heard the name "Joseph" being shouted round the prison one night. It was only later he discovered it was that night his father had died.

This and several other high-profile skeletons crept out of KwaZulu-Natal's apartheid cupboard this week, as the Truth and Reconciliation Committee (TRC) heard testimony around some of the most pivotal human rights abuses in the province's history.

One of South Africa's most notorious deaths in detention will be the focus of Friday's hearings in Durban when Khanyisile Mdluli (63) testifies about the 1976 alleged murder of her husband, former Umkhonto weSizwe commander Joseph Mdluli, at the hands of security police.

Mdluli will tell the tale of the fateful night when a group of security police

active stand is National Party leader FW de Klerk's apathy towards the amnesty question. During last week's party submission, he hunted to the commission that more information from apartheid offenders could be forthcoming if the terms of amnesty were broadened. However, this week his spokesman said he would not

come and took her husband away. First hearing of his death two days later from the local rumour-mill, Mdluli found his battered body in a box in Durban's Gale Street mortuary.

Official reports first linked the death to a fall from a chair and later to a heart attack. But an undertaker had taken a picture of Mdluli's terribly battered body which underground African National Congress members smuggled out of the country. Harassed by police after the picture focused international attention on South Africa, Mdluli waited three years for four policemen cited by the inquest magistrate to face trial for her husband's murder

The policemen — then captain David Van Zyl, lieutenant Andy Taylor, sergeant Mandlakayise Makhanya and constable Zablon Ngobese — were let off by Natal's judge president. In a bittersweet irony, however, Taylor now faces charges for the 1981 murder of Durban human rights lawyer Griffiths Mxenge, who acted for Mdluli after her husband's death.

Earlier this week, the TRC also heard testimony related to the bloody

aftermath of the 1985 murder of Mxenge's wife, Victoria, in Umlazi.

Former United Democratic Front (UDF) activist David Gasa, and a former Umlazi cinema owner, Josiah Dlamini, told the commission how the massacre of 15 UDF supporters during Victoria Mxenge's memorial service at the cinema unleashed a "reign of terror" in the sprawling township and wreaked havoc on both their lives

The men alleged an impi of Inkatha Freedom Party supporters led by the late IFP Umlazi warlord Winnington Sabello, and recently expelled IFP MP Thomas Shabalala, invaded the cinema during a prayer service organised days before Mxenge's funeral and killed 15 people with assegais. They alleged police and soldiers assisted the IFP in the attack. Truth commissioner Richard Lyster said the massacre was one of the most important events of the 1980s, after which "this province entered one of its darkest eras as the State of Emergency was declared".

Gasa testified that when he returned home from the funeral four days after

the vigil and went to sleep, he awoke ... the feeling that "heaven was falling on my house ... the house was on fire".

Gasa said he found himself covered in flames and he and his wife barely managed to escape by hooking a hose to the kitchen faucet.

He blamed televised statements made by then IFP secretary general Oscar Dhlomo for "unleashing the irritation of the IFP" on his family, which he believed led also to the second arson attack on his home, the stabbing death of his daughter, and ultimately, to the death of his wife six months later: "I think my wife would still be alive if it weren't for Dhlomo's statement," he said.

Dlamini said he had lost a son and suffered harassment at the hands of the IFP after allowing the UDF structures to use his cinema for Mxenge's memorial service. He also alleged his son was killed by IFP supporters who attacked him while he waited for a taxi in Lindelani: "He mentioned my name. That's when they decided to kill him because they said I organised a memorial for Victoria Mxenge," said Dlamini.

amnesty committee's proceedings. He suggested the commission send legal advisers with their forms, or commission staff

Currin also said no money had been forthcoming from the Legal Aid Board for legal representation for amnesty applicants, as promised by Omar

for designing the amnesty system badly and says the commission is at fault for not following through on promises for legal representation for applicants, and for not sorting out administrative problems

He claims incomplete or incomprehensible applications from prisoners are currently holding up the

SPOTLIGHT ON BISHO MASSACRE

TRC asks Pik Botha to give evidence

CT 30/8/96

(252)

THE BACKGROUND to events that took place in Bisho in September 1992 when Ciskei Defence Force troops fired on thousands of ANC supporters will be under the spotlight next month when the TRC probes the events leading up to the massacre.

FORMER foreign affairs minister Mr Pik Botha and deposed Ciskei military ruler Brigadier Oupa Gqozo have been asked to appear at a Truth Commission hearing on the September 1992 Bisho massacre next month.

The hearing, to be held on the anniversary of the shootings, will reconstruct the events of September 7, 1992 when Ciskei Defence Force troops fired on thousands of ANC supporters during a protest march near Bisho Stadium.

The final death toll included 28 marchers and one soldier.

Eastern Cape commission head Mr Bongani Finca confirmed the invitations to Botha and Gqozo as well as to Deputy Defence Minister Mr Ronnie Kasrils and former senior CDF officers, among them Major-General Marius Oelshug.

It was hoped Botha would be able to provide insight into the role of his department in the events leading up to the massacre.

Gqozo and the former CDF officers would be questioned on whether the shootings were deliberately planned or were the result of "an error in the giving of orders".



"We are hoping for the first time to get to the truth about what happened. There needs to be clarity as to why the Ciskei authorities went to the extent that they did."

It appears unlikely that Gqozo will take up the invitation. He has left his farm Blacklands outside King William's Town and is believed to be hiding. The head of the reopened police investigation into the massacre, Superintendent Dave Walker said he had been unable to trace Gqozo.

Speaking from his Pretoria home, Botha expressed willingness to appear before the commission, but said it would depend on whether he was able to rearrange his busy schedule.

"I am not certain whether it will clash with other important appointments at the time. I am trying to shift them purposely to be able to attend. I also need to refresh my memory with certain documents."

A spokesman for Kasrils' ministerial office confirmed that he would appear at the commission hearing — Sapa

LAW & ORDER

THE DISEMPOWERED STATE

Justice Minister Dullah Omar is treading a tightrope over how much — if any — official recognition should be accorded Pagad (People Against Gangsterism & Drugs), the Islam-influenced vigilante group based in the Western Cape

Pagad — which set an emotional agenda some weeks ago by murdering Rashaad Staggie, a Cape Flats druglord — now has followers in virtually every crime-racked centre in SA

Omar said this week that Pagad was made up of "many groups — overwhelmingly Muslim — who have banded together because of the justified perceptions that the criminal justice system has thus far not dealt effectively with gangsterism and drug trafficking" He denied there was any "state of play" between the Justice Department and the vigilantes

But however much the Minister may deny popular perceptions, Pagad has touched a national nerve. In resorting to privatised and summary execution, it has cut through the seeming inability of SA's police and criminal justice system to actually do something about violent crime. Government's response has been ambivalent

On the one hand, as Omar suggests, law and order would be served if Pagad were to operate within the legal framework — which is to say, if it proved amenable to control. On the other, steps to curb the illegality of Pagad's violence have been (successfully) brushed aside by its leaders. How and why?

At national level, Pagad's frequently shadowy activities are under-reported. But in the Cape, there is little doubt that it has mounted a continuing and deadly campaign against its foes — with little evident urgency in curbing its attacks

Pagad's most visible leaders — Ali "Phantom" Parker and Farouk Jaffer — hold frequent press conferences at the Gatesville Mosque near Athlone, and, apart from inspiring various acts of vigilantism, have called for foreign investors to steer clear of SA until it is free of drugs and gangsters

The police and justice system, to say

the least, appear ineffectual against either Pagad or the gangsters. This week, Western Cape Attorney-General Frank Kahn withdrew subpoenas served on a number of media organisations — aimed at compelling them to hand over evidence relating to Staggie's death



The editors refused and Kahn admitted, after pressure from Police Commissioner George Fivaz, that the law under which the subpoenas were issued — Section 205 of the Criminal Procedure Act — was probably unconstitutional

Kahn, however, initially defended his action by saying the police had failed to come up with essential evidence against Pagad. In the wake of his backdown, Pagad's legal representative said there had been no deal struck with the AG to withdraw either the subpoenas or arrest warrants for Parker and Jaffer, who are still at large

But if neither the police nor Kahn can act effectively, where does that leave Omar? The Minister said "There are many accusations of corruption, of police involvement, complicity in offences, co-operation between drug merchants and certain elements in the police, and, in so far as courts are concerned, lenient

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 bail, ineffective prosecutions and lenient sentences. Many of these complaints are genuine"

Of Pagad, he felt that "like any other movements which involve a degree of mass mobilisation, there are always elements who seek to take advantage and seek to impose an agenda of their own"

Omar — with the Ministers of Safety & Security and Correctional Services — last week released details of a Cabinet-approved programme to tackle crime. Omar's department is also shepherding through parliament a triad of Bills that will, among other relevant matters, make money laundering involving the proceeds of drug dealing a criminal offence. This is a new crime in SA law

The problem is that these measures will take time and money to be enforced — and Pagad is both impatient and arrogant about the potential consequences of its actions

Omar — who had to leave his Cape home because of threats which might have emanated from Pagad sympathisers — must therefore keep the lines open to an organisation with whose aims he has sympathy, but whose methods he naturally deplores

The issue has deep roots in SA's altering circumstances. According to Omar, "Under the new constitutional order, the State is to a certain extent disempowered. Rights are given to individuals." However, "individuals in communities must not only enjoy rights, they must also accept responsibility"

In his view, Pagad "is not a fundamentalist organisation," though he does feel that "Qibla (fundamentalist) elements play a role"

He expresses some optimism about the situation. "If you examine what has happened in many parts of the country, there is a strong desire on the part of communities to work with the authorities. What is required is for the various arms of the criminal justice system to extend that co-operation to communities, take note of

FEATURE
TRUTH COMMISSION

MORE PROBING NEEDED

FM 30/8/96

(252)

Neither truth nor reconciliation was much served by the submissions of the political parties to the Truth & Reconciliation Commission (TRC) last week

Though the ANC and NP apologies to victims of human rights abuses are welcome, the commission is no closer to granting relief to those whose only wish is to know who murdered their relatives, why and where their remains are buried

The ANC upstaged the NP by coming clean on abuses in its camps and naming 34 cadres executed for mutiny, murder and rape. It even says "There are instances where we could have acted more firmly and speedily to prevent and stop abuses and for that the ANC accepts collective responsibility"

While exhorting the commission to track down NP leaders who authorised and committed atrocities, the ANC failed to name the perpetrators on its side as revealed in the 1992 Skweyiya Commission report to President Nelson Mandela. The report apparently fingers Defence Minister Joe Modise, Foreign Affairs Minister Alfred Nzo and National Intelligence Service Deputy Minister Joe Nhlanhla, among others

It recommends that such people not escape accountability and that "no person guilty of committing atrocities should ever be allowed to assume a position of power"

A further recommendation that the ANC compensate those it abused has also been ignored, claims DP leader Tony Leon, who intends to bring these "glaring shortcomings" to the attention of the commission

The ANC's submission does, however, excel in providing a wealth of detail on the armed struggle, including aborted plans to blow up former State President P W Botha's Cabinet

It accuses the State of numerous "false flag" operations aimed at discrediting the organisation and of using chemical weapons — and napalm extensively in Namibia and Angola. The ANC has asked the TRC to probe the full extent of the destabilisation by SA of its neighbours, which by 1989 had cost 1,5m lives

It maintains that far from being abolished in 1990 as the NP claims, State terrorism was accelerated between 1990-1993 resulting in the death of 12 000 civilians. It warns that Third Force apparatus may still exist

Both parties denied any policy of systematic human rights abuses and had tried to keep civilian casualties to a minimum. But both lost momentary control of overzealous followers and bad things had happened, as in any war. Because the ANC was fighting a just war, it was somehow less blameworthy

It is in this context that the ANC attempts to justify the 1982 Church Street bombing where 11 of the 19 killed were SAAF officers. It defends the Magoo's Bar bombing as a legitimate target because it was frequented by off-duty security force members. The use of landmines was also acceptable as the State had de-

clared white border farms military zones

But it is the ANC's assertion that it never condoned necklacing, and that this form of reprisal may have been initiated by the State, which really stretches the bounds of credulity. Who can forget the words of Winnie Madikizela-Mandela "Together, hand in hand, with our boxes of matches and necklaces, we shall liberate this country?"

Equally disingenuous is the assertion by NP leader F W de Klerk that the apartheid government never authorised assassination, torture or assault. The most he concedes is that the security laws and State of Emergency imposed by P W Botha and subsequent "unconventional strategies" created an atmosphere conducive to human rights abuses

But Leon says "Time and again, from the first death in detention in 1963 to the Bisho massacre, De Klerk and his colleagues had ample evidence brought to their attention. Far from lessening the abuses, they ratcheted up the system"

De Klerk blames many attacks on rogue security force elements bent on derailing transformation. He implies that former police and army generals will account for hit squad assassinations and other dirty tricks. This is unlikely, says former SADF head General Constand Viljoen, who accuses De Klerk of "trying to dodge his responsibility"

Separating the NP's testimony from that of its generals, as improbable as distinguishing between the experiences of the ANC and MK, appears to be a lame attempt by De Klerk to distance the "reformed" NP from the excesses of its forebears. He would have done better by coming clean

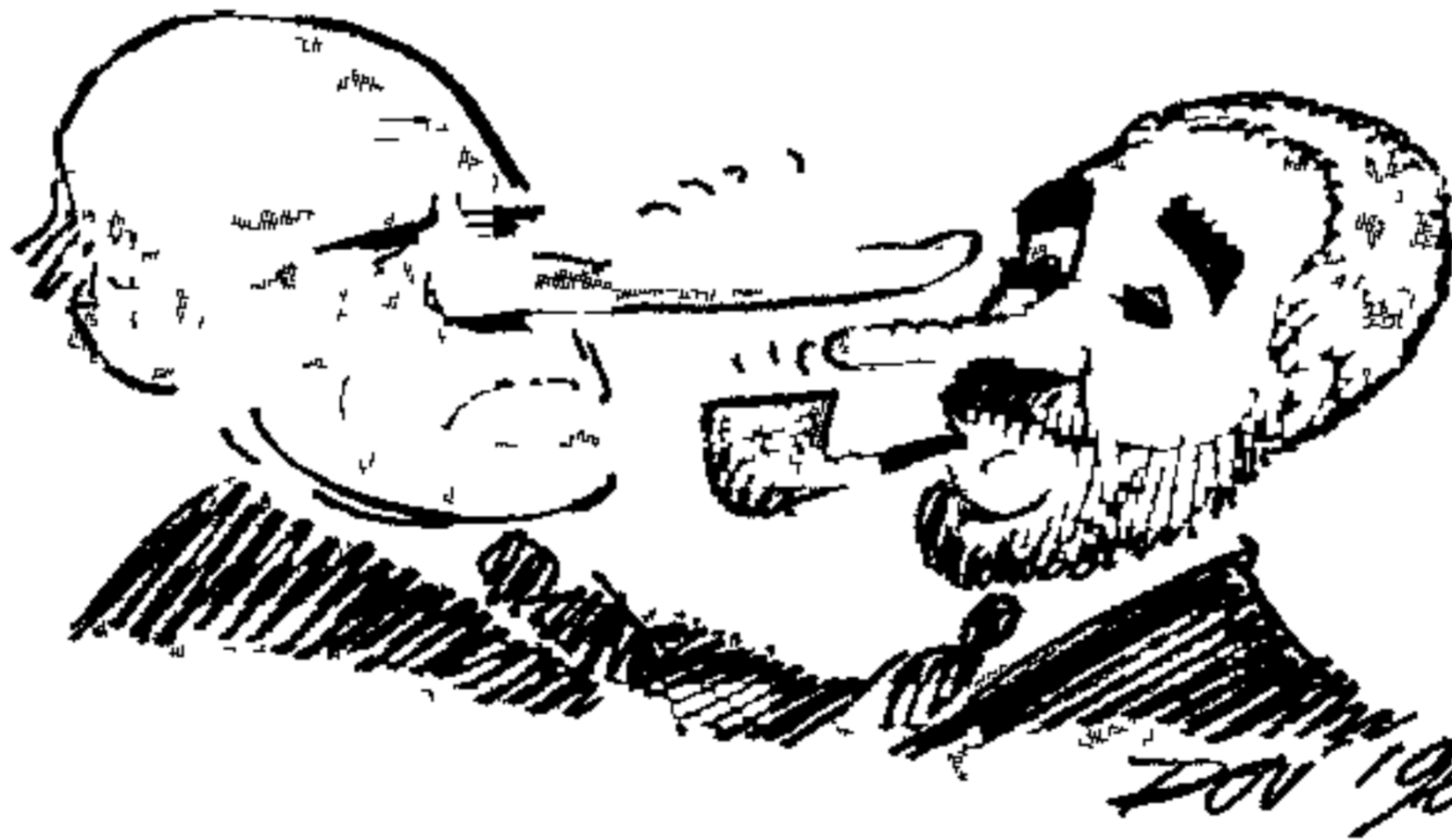
In an attempt to fill in the gaps, the TRC is to subpoena seven retired generals. However, until it can assure those it forces to testify — not to mention those seeking amnesty — that confession will not lead to prosecution, there is no guarantee that they will reveal the truth

The granting of amnesty is vexing the TRC, which is aware of perceptions that it's biased towards the liberation movement

The Norgaard Principles, which gauge the degree of political intent behind a crime, are the strict criteria for amnesty. But the TRC Act also instructs the commission to be mindful of past amnesties which saw mass murderers like Barend Strydom walk free

The commission will have to perform a delicate balancing act in which the overriding consideration will be the need to advance national unity. It was founded on the premise that reconciliation will never be achieved until the truth about human rights violations is unreservedly acknowledged by the perpetrators and their identity revealed

The commission must recall and subject all party leaders to rigorous cross-examination if this aim is to be achieved ■



TRC is ⁽²⁵²⁾ mum on ex-generals

Sowetan 30/8/96

By Waghied Misbach
Political Reporter

THE Truth and Reconciliation Commission has confirmed it is preparing a number of subpoenas aimed at bringing alleged perpetrators of human rights abuses before the commission – but are tight-lipped about whether they included high-ranking former generals

TRC spokesman Mr Sello Rabothatha confirmed yesterday that the commission had prepared a number of subpoenas, but was not able to confirm whether they included subpoenas for former police generals Basie Smit, Krappies Engelbrecht, Johan le Roux and retired commissioners Johann van der Merwe, Mike Geldenhuys and Johan Coetzee

The men were expected to appear before the TRC after National Party leader Mr FW de Klerk indicated at the TRC political party hearings last week that the former leadership of the South African Defence Force and the South African Police would make separate submissions

Specific details

De Klerk said his party took political responsibility for violations of human rights abuses, but that the former army and police leadership would have to account for the “details of specific incidents”

Head of the TRC investigating unit Mr Dumisa Ntsebeza will only reveal the names of people served with subpoenas on Monday, said Rabothatha

There has also been increasing speculation that the TRC will subpoena former NP leader Mr PW Botha, who is on record as saying that he will refuse to appear, even if forced to by the law

Botha also refused to cooperate with De Klerk on the NP’s submission to the TRC last week

Meanwhile, the Inkatha Freedom Party will make its submission to the TRC next Thursday. An IFP spokesman said yesterday that it would be “unfair” to comment because it would “pre-empt” the submission

First two amnesty applicants freed

PRETORIA - The first two convicted murderers to be granted amnesty have been released from prison

"They were first examined by a doctor, who declared them fit and healthy," a correctional services spokesman said in Pretoria yesterday

Boy Diale (35) and Christopher Makgale (52) were serving 12- and 15-year sentences respectively in Rustenburg

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prison for the murder of a tribal council chairman in former Bophuthatswana in 1990

The Truth and Reconciliation Commission's amnesty committee this week voted unanimously to free the two

They were the first applicants to appear before the amnesty committee, chaired by Mr Justice Hassen Mall. They testified before the committee in Phokeng near Rustenburg in May

They were jailed in October 1991 for the murder of Glad Mokgatle after he had been appointed tribal council chairman by former Bophuthatswana president Lucas Mangope

The Promotion of National Unity and Reconciliation Act requires applicants to make a full disclosure of their offenses, and to prove that they were carried out with a political motive - Sapa

Doctors must come clean to heal past'

ADELE BALETA
Staff Reporter

TRUTH commissioners have invited all health professionals to a special gathering to thrash out a process whereby the medical profession can confront its complicity in past human rights violations and ensure this never happens again

It is hoped that the consultative workshop in September will help heal health professionals and provide a catalyst for uniting the deeply divided South African medical profession

There is broad consensus in the profession that its members need to be accountable for human rights abuses of the past, but the question as to how this should happen is still the subject of heated debate in medical circles

Some believe the process of disclosure and documentation should be part of the current Truth and Reconciliation Commission (TRC), while others feel a separate commission should be set up parallel to the TRC to deal exclusively with health professionals. A combination of the two has also been proposed

Health professionals who are also truth commissioners, including Wendy Orr, Fazel Randera, Yasmin Sooka and Glenda Wildschut, have proposed the meeting to try and achieve consensus

Dr Orr said "We do not intend forcing any direction but merely want to find a way forward that everyone agrees on"

The Medical Association of South Africa (Masa), the SA Interim Medical and Dental Council (SAIMDC), the SA Nursing Association, the Psychologists Association of SA, members of the former National Medical and Dental Association and other groupings of health professionals are being invited

There have been calls for Masa and the SAIMDC particularly to participate in the process of truth telling, forgiveness and reparation because they are perceived to have been part of the apartheid establishment

Masa said it would support any mecha-

■ The divided medical fraternity has been asked to meet to decide on a way of healing the profession for the benefit of all South Africans.

nism that would facilitate a process of accountability, but believes a separate truth commission for health professionals would be too costly, would duplicate activities and would not have the statutory powers of the current TRC

The association's federal council chairman, Bernard Mandell, said Masa would "try to get all relevant information about human rights violations" and submit it to the TRC

But Masa has been the subject of a stinging attack from its own members and other groupings of health professionals for "not going far enough". Many suspect Masa is not committed to "coming clean" on the activities of its members during the apartheid era and will close ranks and protect its own

Some also believe doctors who complied with perpetrators of human rights violations will simply not come forward to the TRC

Two members of the disbanded Namda, a progressive, anti-establishment grouping of doctors, said a submission to the TRC would not be enough and suggested that the process start with the TRC and a separate process continue for the medical profession to make sure self-examination continues

Namda members Iqbal Survé of Lansdowne and Oscar Setsubi of Langa treated victims of torture and detention in the Eastern Cape in the late 1980s and say they were victimised and intimidated by Masa members for doing so

Dr Survé, a sports medicine specialist, said Masa had for years claimed to represent the medical profession and now that there were calls for accountability they were not taking the lead in revealing the activities of their members

He was referring to statements by the independent editor of Masa's SA Medical Journal, Daniel Ncayiyana, that Masa alone could not be held accountable for past abuses by the health profession. He warned that if other groups did not participate in

the process neither would Masa. Dr Survé said Masa's collective apology for its role in supporting apartheid by "omission or commission" was not enough

Dr Setsubi, who has joined Masa because of its resources and in an attempt to swell the ranks of progressive doctors, said it was important that the process be part of the broader TRC and include the public, but that it also needed to undergo its own soul searching in a separate forum

He said the rest of Africa was waiting to see how the South African medical profession planned to handle issues of repression and torture, especially Kenya where there were continuing human rights violations

Dr Survé said the findings from the agreed upon process would have to be published for everyone in the profession to see, to make sure the same thing never happened again. International guidelines on repression and torture had to be statutory

He said the medical profession was deeply divided historically and this division continued to exist. Masa was still perceived to be a mainly white organisation and, despite its recruitment drive for black doctors, there were few who held top positions

He said the association needed to be accountable for its silence on a number of issues including the role of its district surgeons in past and continued abuses and the lack of support given to black doctors who treated victims of torture and repression during the apartheid years

The segregation of medical schools and hospitals has to be addressed. Dr Survé and Dr Setsubi said they had not been allowed to treat white patients while they were studying.

Masa member Dr S Ismail of Gatesville said a separate commission tied to the national commission was necessary to "send out a clear signal that, however painful the process to doctors, those who have abused the privilege and violated the sacred oath will be accountable"

'Medical truth commission will benefit all'

ADELE BALETA

A VICTIM of torture at the hands of security police has asked that a medical truth commission be set up for the benefit of doctors and ordinary South Africans

Legal adviser Amos Smilo Dyantyi rocked the Truth and Reconciliation Commission (TRC) in June when he said a Worcester doctor had told security police to force feed him porridge so that if he died as a result of torture it would look as if he had suffocated

Mr Dyantyi, a civic leader in Zwelethemba township at the time, said he had been subjected to excruciating torture including having electrodes inserted into his anus

The doctor, J J van Heerden, has denied the allegation in a letter to the commission, saying he was too busy to make a public denial before the commission

But in an interview with SATURDAY Argus, Mr Dyantyi said he had witnesses who could testify about Dr Van Heerden's conduct. He said he felt Dr Van Heerden should have spoken to him and denied the allegation in front of him

Mr Dyantyi said it was essential to allow doctors to come forward and talk about their complicity in human rights violations. This was best done in a separate forum. "The idea is not to blame but to expose, so that it never happens again"

Mr Dyantyi said many people who were tortured had healed physically but carried the trauma inside. An apology, he said, would go a long way toward inner healing

On the same day as Mr Dyantyi gave evidence, a former leader of the Zwelethemba Youth Organisation, Zandisile Ntsomi, testified that a Tygerberg Hospital doctor had handed him back to police a day after amputating his bullet-shattered leg

Mr Ntsomi said he was taken from his wheelchair, put in the back of a police van and driven back to Worcester, where he was later acquitted on a charge of public violence. He had been shot by police during a funeral in 1985

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EMMA KHESWA and Agnes Nhlapo of Sebokeng were once neighbours — now they are sworn enemies.

The two, who used to live on the same street in the township's Zone Seven, were never close but they got along fine and often exchanged greetings.

Their sons, however, chose routes that would eventually lead to violence, a loss of life and bitterness.

Nhlapo's eldest son, Mzwakhe, had always been interested in politics and it came as no surprise when he left the country to join the ANC after completing his studies.

By many accounts, Kheswa's son, Khetisi, was a soft-spoken and shy young man who showed no obvious interest in politics. But he did have a penchant for fast cars and quickly became a small-time car thief.

This set him on a collision course with his neighbours or, more specifically, with ANC members in Zone Seven.

He was summoned to a people's court on a few occasions. On one of them he was allegedly shot in the stomach and left for dead.

He survived the attack and went on to become the notorious "Vaal Monster", said to be working with the police to terrorise the people of Sebokeng.

He was allegedly involved in a string of massacres and murders which claimed the lives of more than 64 people.

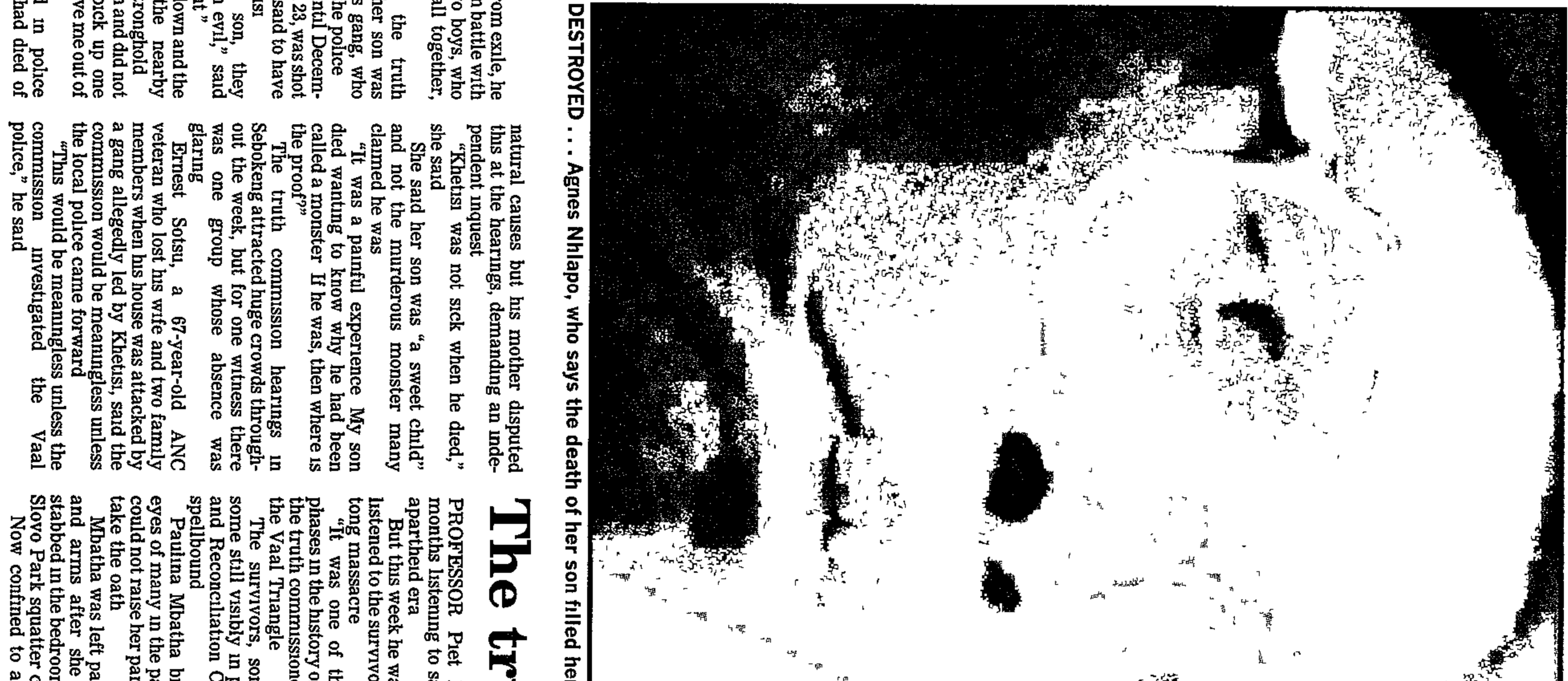
When Mzwakhe returned from exile, he found his community locked in battle with Khetisi and his gang. The two boys, who had grown up playing football together, were now enemies.

Mzwakhe's mother told the truth to the commission this week that her son was terrorised by Khetisi and his gang, who were often accompanied by the police.

This went on for a while, until December 1992, when Mzwakhe, then 23, was shot lead by a team of policemen said to have been in the company of Khetisi.

"When they killed my son, they destroyed and filled me with evil," said Nhlapo. "My son was innocent."

Kheswa's house was burnt down and the family sought refuge in the nearby K'wamadala hostel, an IFP stronghold. "They burnt my house down and did not even give me a chance to pick up one nail," said Kheswa. "They drove me out of my neighbourhood."



DESTROYED . . . Agnes Nhlapo, who says the death of her son filled her with bitterness

How sons turned their mothers into sworn enemies

Pictures: HERBERT MABUZA

NOTULE HADEBE'S world fell apart one fateful Sunday morning three years ago when his daughter, Patricia, was shot dead by a sniper in Sebokeng in the Vaal Triangle.

It was June 20 1993, and Hadebe, his wife and their three children were on their way to visit his brother-in-law, who lived in another section of the sprawling township.

As the Hadebes were making their way to their destination, they came across an Inkatha Freedom Party funeral procession moving towards the local cemetery.

Sebokeng was in the grip of fear and tension following a wave of unrest. There was a heavy police presence and the area was quiet but tense.

A traditional man, Hadebe and his family slowed their pace to show respect for the procession. Just then, a sniper appeared at the window of one of the three buses in the motorcade and began firing at them. One bullet hit Patricia in the lower abdomen and she fell to the ground, screaming. "What have I done? What have I done?" She died later in hospital.

Patricia's scream haunts her devastated father to this day. "That was the day they destroyed my family," a tearful Hadebe told a packed hearing of the Truth and Reconciliation Commission at the Sebokeng College of Education this week.

Grief-stricken murmurs and sounds of anger greeted Hadebe's harrowing account, told in a sorrowful and faltering voice. Tears welled up in the eyes of many as the hapless father spoke of the effect Patricia's death had on the family.

Patricia's sister was a bright-eyed Std 5 pupil until the shooting of her sibling.

'That was the day they destroyed my family'

The truth that moved a commissioner

natural causes but his mother disputed this at the hearings, demanding an independent inquest.

"Khetisi was not sick when he died," she said. "It was a painful experience. My son died wanting to know why he had been called a monster. If he was, then where is the proof?"

The truth commission hearings in Sebokeng attracted huge crowds throughout the week, but for one witness there was one group whose absence was glaring.

Ernest Sotsu, a 67-year-old ANC veteran who lost his wife and two family members when his house was attacked by a gang allegedly led by Khetisi, said the commission would be meaningless unless the local police came forward.

"This would be meaningless unless the commission investigated the Vaal police," he said.

PROFESSOR Piet Meiring has spent months listening to sad stories about the apartheid era.

But this week he was horrified when he listened to the survivors of the 1992 Bopalong massacre.

"It was one of the saddest, darkest phases in the history of South Africa," said the truth commissioner after four days in the Vaal Triangle.

The survivors, some in wheelchairs, some still visibly in pain, held the Truth and Reconciliation Commission hearing spellbound.

Paulina Mbattha brought tears to the eyes of many in the packed hall when she could not raise her paralysed right hand to take the oath.

Mbattha was left paralysed in both legs and arms after she was attacked and stabbed in the bedroom of her shack in the Slovo Park squatter camp.

one of the few who survived the night-time attack, allegedly carried out by residents of nearby K'wamadala hostel.

The frenzied attack left 49 people dead, scores injured and a number of families destroyed.

Miriam Molete lost her common-law husband, Pule Lekaba, in the massacre, while her young daughter, Mita, was left paralysed.

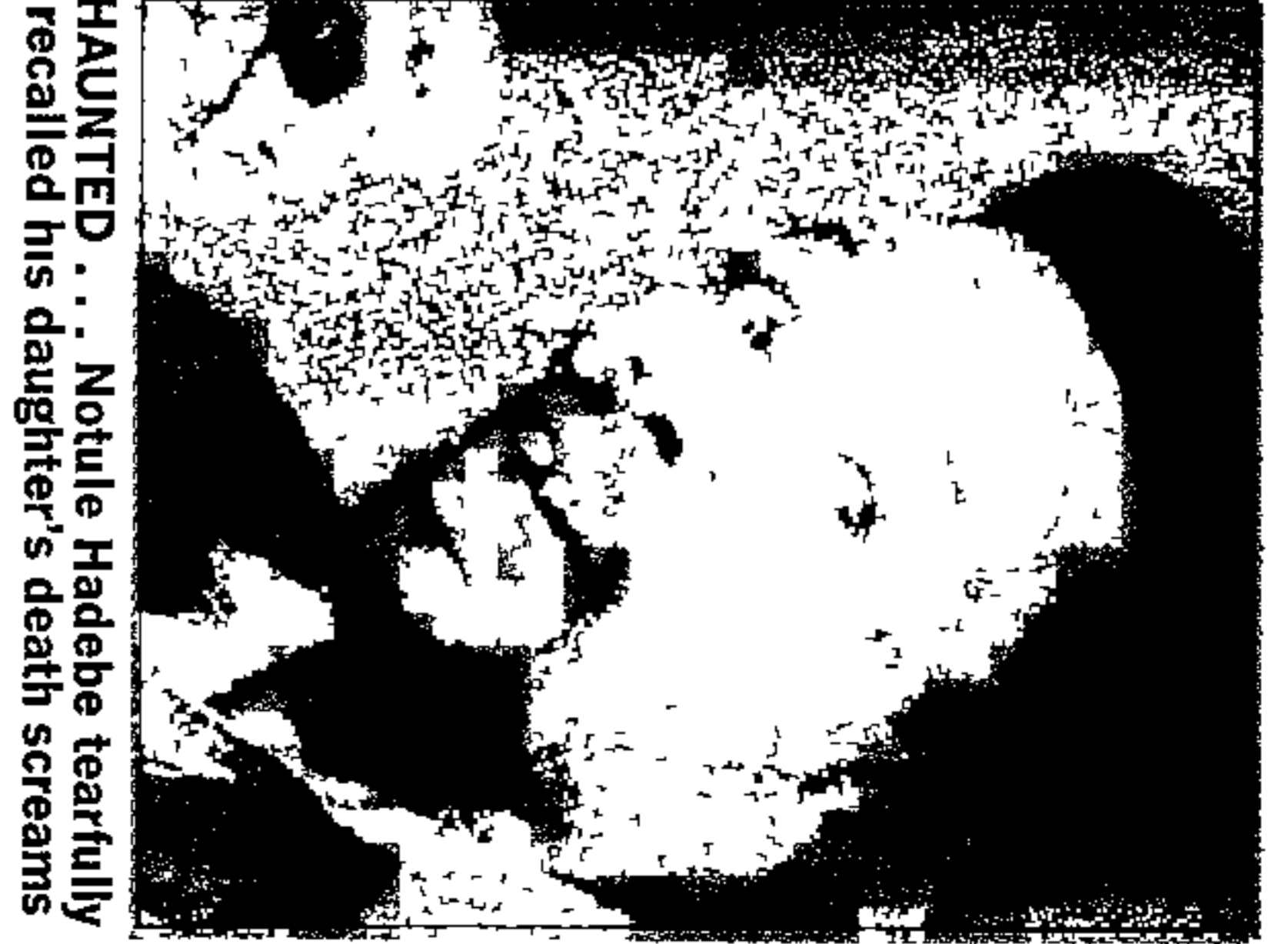
Molete had been kicked out of a rented house and was staying at her sister Florence's shack. The family had just gone to sleep when they were abruptly woken by the sound of shattering glass.

A group of men broke into the house and demanded guns. When the family said there were no guns in the shack, they were attacked.

Molete and her sister were stabbed and hacked. They tried to shield Mita but she was hacked on the head with a pangas. "Now my child is paralysed and in a wheelchair," said Molete, who asked the commission to help pay for her child's education. She also asked them to help her identify Lekaba's grave as she had still been in hospital when he was buried in a mass funeral.

Jane Mbongo spoke movingly about the injuries suffered by her two-year-old daughter, Victoria. Mbongo was stabbed repeatedly as she tried to protect her daughter inside their shack.

Despite her valiant efforts, the child was severely injured. Mother and daughter carry mental scars and need regular medical attention.



HAUNTED . . . Notule Hadebe tearfully recalled his daughter's death screams

IFP to give testimony

Farouk Chothia

DURBAN — IFP members are expected to make a historic appearance before the truth commission today to give evidence on the 1990 massacre of 11 of the party's members

Local IFP Women's Brigade chairman Tokozile Dlamini will recall how gunmen sprayed her hut with bullets as a group of young people were waiting for a bus to take them to the IFP national conference in Ulundi.

Dlamini's daughter Goodness was killed in the attack.

Dlamini will be the most senior IFP member to give evidence to the commission so far. This suggests that the party's initial opposition to the commission has softened. IFP defence spokesman Philip Powell previously described the commission as "Stalin's show trials".

While denying that the party had shifted its position on the commission, IFP spokesman Ed Tillett said yesterday that several IFP members, as well as relatives of fairly senior IFP members, would now recall human rights violations at commission hearings.

However, the IFP would not make a formal submission on the conflict in SA.

Commission spokesman Mdu Lembede said Phosiwe Mzindle — whose daughter and granddaughter were killed in the 1990 incident — Dalumbi Linda and Cusiyu Ndlovu had indicated they wanted to testify.

Truth commission will hear removal victims

BD 12/8/96

(252)

Louise Cook

PRETORIA — The truth commission has opened the door to testimony from potentially hundreds of thousands of victims of forced land removals

Officials said at the weekend that victims of forced removals — up to 5-million people — would still have to work through the Land Claims Court to obtain restitution

But if specific cases of gross abuse, such as killing or torture, were identified as being linked to the removals, the commission would allow the victims to testify

The ANC-aligned agricultural research body, the Land and Agricultural Policy Centre, and the National Land Committee — which represents hundreds of landless communities — have been lobbying the commission to allow testimony about forced removals in general, arguing such practice had led to gross breaches of human rights.

Human Rights Violation Committee member Russell Ally said the com-

mission was not insensitive to land removal victims, but it did not want to lose its focus.

"The Truth and Reconciliation Act determines that past policies alone are not enough to justify testimony," he said "We have to look at individual suffering as a result"

A submission from the Land and Agricultural Policy Centre detailing the circumstances of forced removals, would be "invaluable" in giving perspective, he said. The centre said it was consulting legal opinion on the issue. The centre's advocate, Steven Goldblatt, said the commission would have to find a way around the problem of dealing with additional testimony

"The fact is that these people were severely victimised and abused as a result of government's policies at the time," he said

National Land Committee chairman Brendon Pearce said forced removals had been crimes against humanity "People died violently. Some were removed at gunpoint"

'Stranded' ex-MP did not seek help

Pearl Sebolao

FORMER ANC MP Jan van Eck, reportedly stranded in the Burundian capital Bujumbura, had not approached the foreign affairs department for help, department spokesman Peter Swanepoel said yesterday

Van Eck, who left politics to concentrate on international affairs, has been in Burundi since July 24.

Swanepoel said the department had been in contact with Van Eck and he had briefed them about "the situation as it developed in Burundi, but has not so far approached the department for assistance" to get back to SA

The department had learned from newspaper reports that Van Eck was stranded, but could not intervene until it was requested to do so, he said

Burundi has been under sanctions since the military regime of Pierre Buyoya seized power from Burundi's

first elected president, Sylvestre Ntibantunganya.

The NP said yesterday it did not support the proposed sanctions against Burundi. "SA sanctions against Burundi will accomplish nothing as an attempt to get rid of the military dictator", said NP foreign affairs spokesman Boy Geldenhuys

Geldenhuys said that "during January to December last year SA exported about R13,96m worth of goods to Burundi, while not a cent's worth was imported from Burundi".

Geldenhuys said sanctions against Burundi were a misleading show of power by government, and even if they were to have any significant effect, the NP would still be opposed to this step as sanctions harmed the wrong people. The NP believed that existing OAU resolution mechanisms should be used to resolve serious internal differences, instead of sanctions.

used six posts in the management echelon This will enable the Department to make further progress in the relevant regard

Taxi violence: people killed/injured
553 Mr H A SMIT asked the Minister for Safety and Security

- (1) In (a) each month in 1995 and (b) each of the first four months of 1996, how many people (i) died and (ii) were injured in taxi violence attributed to the conflict (aa) between two taxi organisations in the Western Cape, the names of which have been furnished to his Department for the purpose of his reply, (bb) relating to the use of the Durban-Johannesburg and Durban-Nongoma routes, respectively, and (cc) within a certain taxi organisation in Durban, the name of which has been furnished to his Department for the purpose of his reply.
- (2) whether the Government has taken or intends taking any steps to put an end to taxi violence, if not, why not, if so, what steps?

(1) (a)	(i) (aa)	Month	Killed
		January	0
		February	0
		March	9
		April	1
		May	0
		June	0
		July	0
		August	1
		September	0
		October	0
		November	0
		December	0
		TOTAL	2
(bb)	Month	Killed	
	January	6	
	February	4	
	March	14	
	April	11	
	May	21	
	June	10	
	July	8	

(b) (i) (aa)	Month	Killed
	August	2
	September	3
	October	2
	November	3
	December	0
	TOTAL	84
(bb)	Month	Killed
	January	11
	February	0
	March	2
	April	9
	TOTAL	22

(1) (a)	(ii) (aa)	Month	Injured
		January	0
		February	0
		March	1
		April	0
		May	0
		June	0
		July	0
		August	0
		September	0
		October	0
		November	0
		December	4
		TOTAL	5
(bb)	Month	Injured	
	January	8	
	February	7	
	March	33	
	April	4	
	May	26	
	June	10	
	July	12	
	August	7	
	September	0	
	October	2	
	November	3	
	December	0	
	TOTAL	112	
(b) (ii) (aa)	Month	Injured	
	January	14	

(b) (i) (aa)	Month	Injured
	February	0
	March	29
	April	33
	TOTAL	76
(bb)	Month	Injured
	January	7
	February	17
	March	11
	April	7
	TOTAL	42

- (1) (a) (i), (ii) (cc) These statistics required are included in (1)(a)(i) and (ii)(bb) above

Note The figures supplied under (1)(a)(i) and (ii)(bb) are for the province of KwaZulu-Natal There are no statistics available for the different routes

- (2) Yes

The following steps were taken by the Government in the battle against taxi violence

- it initiated a taxi task team consisting of Non-Government Representatives to investigate the taxi industry,
- this task team was also appointed to act as mediator during taxi related disputes in an attempt to solve problems before violence erupts,
- taxi violence was declared a National Priority Crime in the Western Cape and KwaZulu-Natal and as a result of this, a specialised police unit was formed to investigate taxi violence related cases,
- in co-operation with the specialised police unit, a taxi co-ordinator was appointed from police ranks at each police station affected by taxi-violence,
- discussions were held with the Attorney-General in Cape Town for a centralised court for taxi cases,
- provision has been made for overtime pay for SAPS ballistic experts, so that all seized firearms can be scientifically examined as soon as possible,
- computer-based data processing was implemented to centralise all relevant information.

— particulars of persons and vehicles involved in taxi violence are circulated to all police stations,

— Station Commissioners at affected stations are made co-responsible to support the Public Order Policing Service and Special Investigating Unit,

— all opportunities for negotiations are explored, but firm police action is taken when necessary,

— the Unit Priority Crime registered a project to investigate the ongoing violence within the taxi industry, and

— this unit utilises specialist investigators dedicated to the project Numerous arrests have already been made and further arrests will be made in the very near future

Legal aid scheme: implementation

554 Mr M F CASSIM asked the Minister of Justice

- (1) Whether any extensive implementation of the legal aid scheme took place in the last calendar year, if not, why not, if so (a) how many individuals were assisted and (b)(i) how many legal practitioners in private practice were engaged in this regard and (ii) at what cost in respect of each such practitioner.

- (2) whether he will make a statement on the (a) future or (b) long-term sustainability of the scheme?

The MINISTER OF JUSTICE

- (1) To answer the first part of the question, a short summary of the development of the legal aid system is necessary In 1971 the Legal Aid Board implemented a *judicare* legal aid system countrywide In terms of this system indigent people who qualify for legal aid are referred to legal practitioners in private practice for the provision of the necessary legal services These practitioners' fees and disbursements are paid by the Board in accordance with prescribed tariffs and subject to certain predetermined conditions As time passed and as part of the Board's attempt to make legal services accessible to indigent persons, it has estab-

ished twelve branch offices that operate on a full time basis. There are currently branch offices at Pretoria, Johannesburg, Benoni, Soweto, Bloemfontein, Cape Town, Athlone, Mitchell's Plain, Port Elizabeth, East London, Durban and Pietermaritzburg.

Furthermore, at places where the Board does not have branch offices, it is represented by officials of the Department of Justice, who act as Legal Aid Officers at every district magistrate's office. The result is that there are approximately 300 offices countrywide where indigent persons can apply for legal aid.

Since 1992, the Board has also been rendering legal services by means of legally qualified personnel in the employment of the Board. In that year the office of the Public Defender was established in Johannesburg, with the aim of providing legal representation to indigent accused appearing in that city's magistrates' courts. Investigation carried out by auditors indicate unequivocally that this form of legal representation is considerably cheaper than rendering legal aid through the *judicare* system.

A further development since 1994 is the putting into place of an arrangement with Law Clinics at universities and other institutions to provide legal services in a more cost-effective manner. Through this arrangement the Board appoints qualified attorneys, who act as principals in terms of the Attorneys Act 1979, of candidate attorneys at the clinics to provide legal services to the community in the area where the clinic is situated. During the 1995/96 financial year co-operation agreements were concluded with 13 clinics. There are now 23 clinics countrywide in operation.

Indications are that the provision of legal services by means of these clinics is considerably less costly than the *judicare* system.

An important development took place during the 1995/96 financial year, when steps were taken to give effect to section 25 of the Constitution of the Republic of South Africa, 1993, by providing legal

assistance in appropriate cases. Since 10 March 1995, at my request, the Board provides legal representation as the agent of the State to accused persons who are entitled to legal representation at State expense in terms of section 25.

(a) During the 1995/96 financial year legal representation was provided to approximately 65 000 accused persons in terms of section 25 of the Constitution. Legal representation by the Legal Aid Board was provided to a total of 112 050 people during the 1995/96 financial year. This is the first time in the Board's history that more than 100 000 instructions had been issued in one financial year. These instructions were issued for the following cases:

Criminal cases	86 936
Divorce cases	12 235
Civil cases	10 905
Industrial and other cases	1 974
Total	112 050

(b) (1) It is not possible to say how many different practitioners were involved in the provision of legal services during the previous financial year, as the Legal Aid Board's statistical record keeping is not yet that refined. It can however, be stated that a large percentage of the 5 808 practitioners registered with the Board received instructions during the financial year. Legal aid instructions for legal representation in criminal cases are distributed in terms of a rotation list system. The rotation list system was implemented mainly to ensure an equitable distribution of instructions. In civil and divorce matters, legal aid applicants are entitled to choose the practitioner to act for them.

(ii) It is also not possible to determine how much was paid to each practitioner who was instructed during the 1995/96 year in respect of instructions issued to him or her during that year. The main reason is that many of the

cases for which instructions were issued during that period have not been finalised. Not all accounts have therefore been submitted. However, a total amount of R69 415 276 was paid to practitioners during the 1995/96 financial year.

(2) The provision of legal aid services to those who cannot afford the services of legal practitioners is an essential service which the State must render in a democratic dispensation. The provision of such services will therefore have to be continued. However, the affordability of schemes in terms of which legal aid services are rendered must be looked at continuously and more cost-effective schemes in terms of which legal services of an acceptable standard can be provided, must be considered. This is being done. The Legal Aid Board has for instance looked at the feasibility of a Public Defender Scheme since 1992 and has established that legal representation in criminal cases can be provided substantially cheaper by way of this system than by way of instructing practitioners in private practice. I recently requested the Legal Aid Board to expand the Public Defender system as a matter of urgency. The Board indicated to me that it will endeavour to establish six to eight Public Defender offices in metropolitan areas and one or two such offices in rural areas within the next 12 to 18 months.

Overseas mail: price increase

556 Mr J A JORDAAN asked the Minister for Posts, Telecommunications and Broadcasting

Whether there was any increase in 1995 in the cost of sending sea and surface mail to countries abroad, if so, (a) why and (b) what was the (1) cost (aa) prior to and (bb) after 1 July 1995 and (ii) percentage increase in respect of each specified weight category relating to (aa) letters, (bb) printed matter and (cc) small parcels to (aaa) Southern African and (bbb) all other countries?

N1006E

THE MINISTER FOR POSTS, TELECOMMUNICATIONS AND BROADCASTING

The Managing Director of the South African Post Office Limited has informed me as follows:

(a) Yes, sea and surface mail letter-post postage rates to countries abroad were increased with effect from 1 April 1995 and not 1 July 1995. The increases became necessary as a result of escalating costs with regard to domestic handling, internal transport and handling at harbours, increased payments to shipping companies as well as foreign postal administrations for the delivery of our mail and the decline in the value of the Rand against foreign currencies.

Category of mail	Southern Africa			Rest of world		
	Prior to 1 April 1995	With effect from 1 April 1995	% increase	Prior to April 1995	With effect from 1 April 1995	% increases
Letters						
0 to 20 g	—	—	—	75c	90c	20
0 to 50 g	70c	85c	21	—	—	—
21 to 100 g	—	—	—	R1 70	R2 05	20
51 to 100 g	R1 30	R1 60	23	—	—	—
101 to 250 g	R2 80	R3 40	21	R3 30	R4 00	21
501 to 1 000 g	R9 00	R10 80	20	R10 40	R12 50	20
1 001 to 2 000 g	R14 20	R17 00	20	R17 80	R21 40	20

Local government: councils established

544 Mr C W EGLIN asked the Minister for Provincial Affairs and Constitutional Development

- (1) In respect of each of the provinces, (a) how many councils in each of the categories provided for in the Local Government Transition Act, 1993 (Act No 209 of 1993), have been established and (b) how many of these councils employ suitably qualified (i) town clerks, (ii) town treasurers and (iii) town engineers,

- (2) whether his Department is taking any steps to assist in ensuring that a sufficient number of suitably qualified persons become available to fill these posts, if not, why not if so what steps?

N948E

The MINISTER FOR PROVINCIAL AFFAIRS AND CONSTITUTIONAL DEVELOPMENT

- (1) (a) With regard to the categories of councils referred to in the question, it is accepted that reference is made to categories of councils in the interim phase provided for in the Local Government Transition Act, 1993. Assuming that this is the case, the following table represents that number of councils established by election in each of the provinces. Note that the number of councils for KwaZulu-Natal indicate the councils which will partake in the coming elections and have not as yet been established as fully-fledged interim councils. At the same time, cognisance must be taken of the fact that three areas in the Mpumalanga Province also still have to hold elections

Province	TMCs	TMSSs	TLCs	DCs	RLCs	TRCs	TOTAL
Eastern Cape			94	6	7	76	183
Free State			80	4	15		99
Gauteng	4	12	14	2		191	51
KwaZulu-Natal	1	6	61	7		24	75
Mpumalanga			53	3		24	83
Northern Cape			64	6		42	112
Northern Province			12	2	36		50
North West			30	5		18	53
Western Cape	1	6	86	7		27	136
Total (S A)	6	24	494	42	58	206	842

Of which 10 are Local Area Councils and nine are Representative Councils

- (b) With regard to the second part of the question, the information requested in respect of town clerks, town treasurers and town engineers is not readily available in the Department

- (2) Neither the Ministry for Provincial Affairs and Constitutional Development nor the Department of Constitutional Development are responsible for ensuring that suitably qualified persons are appointed to town clerk, town treasurer and town engineer posts. This function is a local function and is performed in terms of the executive powers of each local authority. Norms and

standards are set nationally by various institutes such as the Institute of Town Clerks. In most instances, local authorities require that their town clerks or new appointees obtain membership of such institutes, so as to ensure that the norms and standards set by those institutes, are met by the appointees.

Administration of justice: dispute resolution mechanisms

545 Mr M F CASSIM asked the Minister of Justice

- (1) Whether any steps are being taken or are to be taken towards creating alternative dispute resolution mechanisms to speed up and make more accessible the administration of justice, if not, why not, if so, what steps,

- (2) whether it is the intention to introduce legislation in this regard, if not, what is the position in this regard, if so, what are the relevant details?

N949E

The MINISTER OF JUSTICE

- (1) The South African Law Commission (the Commission) is at present investigating all aspects of the law with regard to arbitration. The investigation deals with both international and domestic commercial arbitration, although international arbitration has so far received preference.

A project committee under the chairperson of Mr Justice Jan Steyn was appointed for this investigation. At the request of the Commission, the project committee at its first meeting on 12 June 1996 considered the future planning of the investigation. The possible broadening of the investigation to include mediation and other alternative dispute resolution mechanisms was also discussed.

The project committee advised the Commission that alternative dispute resolution should be investigated and that the researcher should start with preliminary research and the compilation of sources. On 8 July 1996 I formally requested the Commission to broaden its investigation to include an investigation into alternative dispute resolution at all levels. I stressed the urgency of the project, as formalised methods of alternative dispute resolution could undoubtedly relieve the burden of our court system.

The meeting of the Commission on 31 August 1996 is scheduled to discuss this matter further.

- (2) Legislation has not yet been drafted. The result of the Commission's investigation are awaited.

Special commercial courts

546 Mr M F CASSIM asked the Minister of Justice

- (1) Whether it is the intention to establish special commercial courts within the framework of the judiciary with a view to expediting trials, if not, why not, if so, (a) when, (b) how and (c) what are the further relevant details,

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

N950E

The MINISTER OF JUSTICE

It is not clear from the question what the hon member means by "special commercial courts". Apart from the Witwatersrand Local Division of the Supreme Court of South Africa, where a commercial court has been established in terms of the Rules of that Division, no distinction is made in the Rules of the other Divisions of the Supreme Court between "commercial" and other civil cases. This is a matter which falls within the discretion of the various Judges, President. In terms of the Practice Guide of the Commercial Court of Johannesburg, a "commercial action" means any trial action designated as such by the Judge President. Certain guidelines in this regard have, however, been laid down by the Judge President. If the hon member is referring to courts which deal with commercial cases of a criminal nature it can be mentioned that at some centres, specific prosecutors and presiding officers are at times designated to try these cases, which often emanate from investigations by the commercial branch of the South African Police Service. This is, however, purely an internal arrangement. There is at present no intention to create special commercial courts by way of legislation. The Hoexter Commission of Inquiry (1983) into the Structure and Functioning of the Courts, expressed itself against the unnecessary proliferation of specialist courts. As a result the creation of specialist courts has until now been avoided. The situation will, however, be reviewed if so required.

Foreign service: economising measures

547 Mr M F CASSIM asked the Minister of Foreign Affairs

- (1) Whether any economising measures are being taken in the foreign service with a view to running the service along cost-effective lines, if not, why not, if so, what measures,

Training plan for advocates set up

BO 12/8/96 (252) 

Susan Russell

THE General Council of the Bar, which represents the SA advocates' profession, has launched an initiative to develop a practical training programme aimed at improving the advocacy skills of prospective members of the bar.

Since 1973, an applicant admitted to the Bar as an advocate of the Supreme Court must serve a four-month pupillage during which they work in the chambers of a member of the Bar, picking up practical skills, and then take the national Bar examination.

An editorial in the latest issue of the SA Bar journal Consultus said the proposed training programme would follow similar trends in foreign jurisdictions over the past 20 years.

Britain is one of the foreign jurisdictions with an advocacy training programme, and the English Bar had already co-operated with its SA counterpart in getting the local initiative under way, the article said.

The Consultus editorial said the traditional view that the ability to be an advocate could not be taught was no longer acceptable.

While hidden qualities and talent determined the difference between mere competence and being truly great, there was no doubt that the basic skills of advocacy, like any other skills, could be taught.

"It has long been accepted by other professions that skills training is beneficial for new entrants and also for the public," Consultus said.

"It therefore follows that advo-

cacy training will enhance the standards of advocacy"

The Bar Council had already established a national advocacy training committee under the leadership of advocate Johan Ploos van Amstel SC, which in turn was planning workshops and an extension of its teacher training base, Consultus said.

General Bar Council chairman Malcolm Wallis SC told Consultus that under the training programme every prospective advocate who entered pupillage in SA would be required to undergo basic advocacy training using the methods developed internationally over the past 20 years.

Regulated

In addition to the existing components of teaching they received from their "master" at the Bar during pupillage, pupils would be given the opportunity to learn and exercise the skill of advocacy in a regulated training environment.

Wallis said he did not foresee that this addition to a pupil's training would displace the other important components of the existing pupillage training process of the national Bar examination.

He said that continuing legal education would enable the profession to serve the public efficiently and successfully in the overall interests of justice.

"If the advocacy profession is to survive, those are the goals which it must set itself and the General Bar Council must commit itself to advocacy training in order to enable its members to achieve those goals," Wallis said.

R1m guarantee for Parks Board

Pearl Sebolao 

CONSERVATION Corporation Africa announced at the weekend that it would underwrite the R1m needed to help save Table Mountain from development on its slopes.

The money that is raised will go towards the National Parks Board's Supreme Court appeal against the proposed development of the 70-room Oudekraal Hotel between Bakoven and Llandudno. The board's first application to stop the development was "thrown out on a technicality", a spokesman for the group said.

The company's CE Dave Varty said the group was opposed to insensitive development and that the hotel would not only impair one of Africa's most important natural habitats, but could set a development precedent that would detract from SA's attraction as a tourism destination.

"As custodian of the mountain, which is a proposed World Heritage Site, the National Parks Board has a duty to prevent a precedent being set for a ring of development around the slopes of the mountain," Varty said.

He said that the country's booming ecotourism industry would continue to thrive only if underscored by ecologically sustainable practices.

Varty called on all business leaders to support the endeavour to raise R1m.

The World Wide Fund for Nature would be co-ordinating the fundraising drive for the Save Table Mountain Campaign.

Theft of law test to be investigated

(252) (24)
Susan Russell

BD 15/8/96

THE Association of Law Societies is to hold an investigation, preferably conducted by an independent body, to determine how examination papers which were to have been written by almost 2 000 candidate attorneys on Tuesday were stolen, association president Michael Pinnock said yesterday.

The biannual Attorneys Admission Examination was postponed at the last minute on Tuesday after it was discovered the day before that exam papers as well as the model answers had been stolen and offered for sale.

Postponement of the exam means about 1 900 candidate attorneys who were to have taken the exam in seven centres nationwide will have to wait until the end of the month to write.

Criminal charges were laid as soon as the theft was discovered and a police spokesman confirmed yesterday afternoon that an arrest was imminent.

Pinnock said the association had the option of holding an internal inquiry into the theft, or, preferably, an independent investigation by an advocate or retired judge. He said the final decision was up to the association's four member provincial law societies, but he would urge them to opt for the latter. He said an inquiry would hopefully reveal how the theft occurred as well as the identity of those candidates who purchased leaked papers.

Pinnock said the provincial law societies would be holding their monthly meetings within the next fortnight and a decision on the method of inquiry as well as a date would be decided then.

Attorneys' exam put off after leak

BD 14/8/96 (252)

Susan Russell

ABOUT 2 000 candidate attorneys nationwide will have to wait between three and four weeks to write their admission exam scheduled for yesterday after it was discovered on Monday that the examination paper had been leaked.

The Association of Law Societies laid criminal charges with the police and decided to postpone the biannual attorneys' admission examination at the last minute yesterday after the association discovered the examination papers had been stolen.

Association president Michael Pinnock said it appeared the examination papers, both the questions and the answers, had been stolen despite strict precautions, and were "available on the streets".

Pinnock said the aim was to re-schedule the examination for the end of August or the first week in September. He said the association would not be a party to the culture of corruption which existed in SA.

"The association cannot allow the integrity of the examination to

be impugned," Pinnock said. "It is simply not acceptable that some candidate attorneys will have had access to the question and answers prior to the examination."

Pinnock said the decision to postpone the examination had not been taken lightly because it affected the careers and plans of many young people.

"However in the interest of the legal profession as a whole, this far-reaching decision has been taken," Pinnock said. He said the association sympathised with the plight of the candidate attorneys involved and would do everything in its power to see that the examination could be taken again as "soon as possible".

He said news that the examination papers, which were to have been written by candidate attorneys in seven centres across SA, had been stolen had been brought to his attention late on Monday.

Pinnock said there had been suspicions that papers set for the last examination had been leaked as well but this was never proven. There was, however, "irrefutable proof" that the latest papers had been stolen, he said.

SAAF 'turned its back' on blinded instructor

Stephané Bothma

PRETORIA — A former SAAF officer blinded and partially deafened by the 1983 Pretoria car bomb explosion held no grudge against the ANC for his disabilities, but was bitter and angry because his former military masters turned their backs on him by refusing financial compensation.

The car bomb, detonated outside the then SAAF headquarters on Friday, May 20 1983, killed 19 people and injured more than 200 others.

Neville Clarence, an ex-fighter control instructor for the SAAF, yesterday told the truth commission that the former air force chiefs "did not want to be burdened by this blind officer" and "simply turned their backs" on his pleas for compensation.

"I accept my disability as almost unavoidable, although unfortunate, in the so-called freedom struggle I was just in the wrong place at the wrong time and accept that I was attacked by my opponent while my guard was down," Clarence testified.

"What I cannot accept and what leaves me bitter and very, very angry,

is that for the past 13 years I have unsuccessfully attempted to get compensation," Clarence told the commission.

Three other witnesses before the commission, who had all lost family members in the explosion, said those responsible for planning the act should be brought to book.

Susan Walters and Elizabeth Klok both lost their husbands in the blast. Adrianna de Wet lost her mother.

Another witness, Dawn Botha, accused the commission of not using the power at its disposal to summons perpetrators of human rights violations to explain their actions.

Botha, who testified that her brother Leon Meyer and his wife Jackie Quinn had been murdered in a "gruesome" manner during a 1985 cross-border raid into Lesotho by members of the former Vlakplaas unit, said despite the names of the perpetrators having been known for some time, they had not been summonsed to tell their story.

Botha said her brother, who had received military training in Cuba and eastern Europe, did not deserve to die in such a gruesome manner only for the upholding of apartheid.

Massacre victims break silence

PORT SHEPSTONE — After shunning the truth commission hearings since they started in April, IFP-aligned victims of human rights violations yesterday finally broke their silence.

The IFP supporters were testifying at hearings in Port Shepstone on the KwaZulu-Natal south coast.

Their testimony related to the September 4 1992 massacre at Nswangwini near Port Shepstone in which 10 IFP members and an unborn baby were killed and many others wounded.

Women's Brigade chairman Thokozile Dlamini told the commission that youths had gathered at her house on their way to an IFP youth conference in Ulundi.

"All of a sudden there was a short burst of gunfire, followed by pandemonium as children screamed and

scurried for cover," Dlamini said.

She later found young men and women at the scene, some wounded and some already dead.

Dlamini said survivors had said some of the attackers wore police uniforms and others camouflage similar to the old SADF uniforms.

Another two people were killed while on their way to her house.

She said her daughter, Thandekile, was seven months pregnant when she was killed in the shooting.

Dlamini said she still bore emotional scars from the attack, had developed a nervous disorder and had been receiving medical attention.

"My soul has never been at rest because the killing of these children at my home and under my guardianship has burdened me with guilt, particularly when I see their parents," she said. — Sapa (252)

Chiefs 'totally opposed' to Bill

Wyndham Hartley

CAPE TOWN — Modernists in government were attempting to weaken if not destroy the institution of traditional leaders to the detriment of the country, KwaZulu-Natal chiefs told a parliamentary committee yesterday.

Chief Hlengwa, leading a delegation of traditional leaders, said that the KwaZulu-Natal house of traditional leaders was "totally opposed to the Council of Traditional Leaders Bill before Parliament".

The legislation was "offensively dismissive" of traditional leadership. It was a sad day for SA when national legislation in a "supposedly democratic" country could be tabled without traditional leaders being consulted.

Hlengwa warned the committee that other African countries were belatedly discovering that the institution of traditional leadership should not be weakened or destroyed as it held communities together. The increasingly "cold and arrogant" attitude of gov-

ernment towards traditional leaders boded ill for SA politics.

The delegation objected to the fact that there had been no consultation on substantive issues in the Bill, such as the appointment procedures, and that members of provincial legislatures and houses of traditional leaders should be disqualified from being members of the national council. Hlengwa said the provincial houses should decide who would represent them on the council.

Mwelo Nonkonyana of the Council of Traditional Leaders of SA criticised the failure of the constitutional development department to consult traditional leaders over the new legislation.

The issue of the national council for traditional leaders as provided for in the interim constitution became controversial when the ANC raced its Remuneration of Traditional Leaders Act through Parliament last year. The IFP argued that it was unconstitutional to approve legislation dealing with traditional leadership without referring it to the council for comment.

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Blinded ex-officer's struggle to get Air Force compensation

By ROBERT BRAND

The State Security Council dissuaded a victim of the Church Street bomb from suing the ANC in London because the government feared a counter-suit for cross-border terror activities by the security forces, the Truth and Reconciliation Commission has heard.

This evidence was given by Neville Clarence, a former Air Force officer who lost both his eyes in the 1983 blast Clarence relived the horror of the 1983 blast before the commission in Pretoria yesterday.

Nineteen people were killed and more than 100 injured when the car bomb exploded outside the Air Force headquarters in Church Street, Pretoria, in 1983. Among those killed were the two men who planted the bomb. Clarence had parked his car

directly behind the bomb vehicle. He had just arrived from Waterloo air force base to pick up some documents.

Because he was technically off-duty he could not claim compensation under the Workmen's Compensation Act.

He described a long and unsuccessful battle to get compensation out of the Air Force and the Accident Commissioner during the course of this struggle an Air Force legal officer suggested to him that he should sue the ANC in London, Clarence said.

He thought the idea far-fetched, but at the next meeting with the officer, he was told that the SSC had advised against proceeding with a lawsuit.

He said the government did not want the embarrassment of a counter-suit by the ANC for the botched Gaborone raid.

The hearing continues today.

Victims of attack oppose amnesty applications

By DAISY JONES

A representative of the victims of a machine gun attack on a bus by AWB and Orde Boerevolk (OB) members has said the perpetrators should be denied amnesty because the attack was motivated by "pure malice" and not political objectives.

Arguing in response to testimony by amnesty applicants David Botha, Adriaan Smuts and Eugene Marais, Ranjit Purshotam of Durban's Legal Resources Centre told the Truth and Reconciliation Commission that the victims were targeted merely because they were black.

Purshotam dismissed a submission by the defence team that the October 9 1990 attack had been intended to show the government and left-wing organisations that the boerevolk would not tolerate attacks on their people.

There had been no evidence that white people attacked the

members - the stated catalyst for the bus attack - had been OB supporters, and the applicants had admitted they would not have fired on whites, Purshotam said.

"The only conclusion one can come to is that they had a malice towards people with a black skin," he submitted.

The applicants had also failed to meet the guidelines for amnesty because the attack had been launched on private individuals who had not displayed political inclinations, and private property, Purshotam told the commission.

In addition the cell members had not followed a directive, nor

The act was motivated by malice'

consulted within a chain of command, and it was questionable whether their organisation was "publicly known", a criterion contained in the Amnesty Act's guidelines.

Purshotam appealed with the amnesty committee not to set a precedent in terms of which inter-racial crimes could be justified.

Counsel for the committee, advocate Robin Brink, said the applicants had had the power to seek out the PAC, bomb their offices, or assassinate their chief if they had wanted to make a political statement. Instead they committed a "cowardly, cold-blooded mass murder - nothing more, nothing less," he said.

Earlier yesterday eight victims of the attack opposed the amnesty applications. Thabani Zulu (45), a married man with seven children, who lost his right arm and his job of 19 years as a mechanic as a result of the attack, testified he had been in "tremendous pain" in

'Applicants fail to meet guidelines'

hospital. He said he still suffered from physical pain and mental disturbances.

Sipho Mabaso (42), who has eight children between the ages of one and 22 years, lifted his shirt and showed the committee and audience a large, dark, hand-sized scar in the centre of his belly.

where he was shot by one of the applicants.

Each of the eight witnesses said they had not been approached for forgiveness by any of the applicants, nor received letters of apology. They had also not been acknowledged by the men during the hearing.

The committee's decision will be announced today.

Law exams rescheduled after stolen-paper scam

Association of Law Societies pledges to reset questions within fortnight after 2 000 candidates are turned away

By TROYE LUND

The South African Association of Law Societies will "pull out all the stops" to ensure board exams -- which had to be cancelled at the last minute because papers were stolen and sold -- are written within two weeks.

Spokesman André van Vuuren confirmed this after the association's four-hour emergency meeting yesterday.

More than 2 000 candidate attorneys were turned away from examination rooms across the country yesterday because the exam papers had been stolen and sold to some candidates.

The principal of one candidate contacted Van Vuuren on Monday evening to inform him his

candidate had bought the paper and its answers from a member of the association.

Van Vuuren said the matter had been handed to the police and the association would take drastic action against those found to be involved. "We will take every action to cut this matter open to the bone."

Police will also try to determine whether papers had been leaked in previous years.

A candidate attorney who travelled from Nelspruit to Pretoria to write the exam, and who asked not to be named, said: "It stinks. What sort of professional body is this if it can't keep the papers secret?"

"This makes the legal profession the laughing stock of other professional bodies. Heads must

roll over this"

Van Vuuren sympathised with candidates who had taken a few weeks leave from work to prepare and were under enormous pressure, but said the papers had to be reset to protect the examination's integrity.

He did not know how anyone could have got into the safe where papers were stored on computer disk, but stressed the leak was no indication of lax security.

"We do not know how this was pulled off. People have broken into Fort Knox before," said Van Vuuren.

He said the panel of examiners would meet as a matter of urgency to set another paper and formulate the answers.

Candidates will sit for the new exam at the end of the month.

Stan 14/8/96 (252)

SADF 'sent untrained men on active duty'

PRETORIA: In the first case of its kind before the TRC, a former national serviceman yesterday blamed the SADF for putting him into situations for which he had not been trained

Mr Johannes van der Merwe said he had been wounded by a hand-grenade explosion at a road-block in the former Eastern Transvaal in 1985. He had been on a compulsory camp at the time.

Van der Merwe said he had been classified medically unfit for active duty during his initial training and had been trained only as a storeman. His objection to being placed on active duty — manning the roadblock — was ignored

When they found an AK-47 in the bag of a minibus passenger the man and his comrades attacked them. One of the men in the minibus threw a hand-grenade injuring Van der Merwe and another soldier. Two of the attackers were shot dead.

Van der Merwe said he did not think it right for the SADF to send him and others on missions for which they were not trained. "There were civilians walking around the area and some of them were hurt too." — Own Correspondent

COUPLE SHOT IN FRONT OF DAUGHTER

'The smell of their blood hung in air'

CT 14/8/96

(252)

PRETORIA: A mother told here yesterday how her son and daughter-in-law were shot dead in front of their year-old daughter in their Maseru home — allegedly by South African security policemen who were later decorated for bravery.

BEFORE her son died after assassins stormed his Maseru, Lesotho, home in 1984, he stumbled outside and told a neighbour the "Boers" had killed his wife, a Pretoria mother told the Truth and Reconciliation Commission yesterday

Truth and Reconciliation Commission yesterday

Mrs Dawn Botha said her son Mr Leon Meyer had lived long enough to add that the attackers spoke Afrikaans

"They used a black substance to camouflage themselves, but their white arms were visible under their short sleeves," she said

She claimed former Vlakplaas commander Colonel Eugene de Kock had organised the attack. His co-operatives had included Mr

Willie Nortje and Mr Snor Vermeulen. They had all been given awards for bravery by former police commissioner General Johan van der Merwe for the cross-border attack, she said

Alleging that Nortje had confessed to the murder in a statement to Transvaal attorney-general Dr Jan d'Oliveira, Botha urged the commission to summon Nortje to testify

She said Leon had been politically aware since the age of 15, and had often been questioned by the security police. He had left South Africa in 1979 after passing matric

After undergoing military training in several former eastern bloc countries, he had been stationed in Maseru, where he married Jackie. They had a one-year-old daughter

at the time of the attack on December 20, 1984

The assassins had entered the house and first shot Jackie dead in the presence of her daughter. Leon had been shot after he tried to escape by removing the burglar bars in the bathroom.

"The walls and floor of the bathroom, passage and kitchen were covered in blood and human tissue," Botha said

"We later went to Maseru and bought cleaning agents to wash off the blood and tissue. Afterwards we opened all the windows, but the smell of Jackie and Leon's blood remained in the air"

Botha said a neighbour had told her Leon was able to convey to her before his death that the attackers were speaking Afrikaans

She was uncertain how she would react if the attackers were granted amnesty, saying: "A one-year-old child had to witness the cold-blooded murder of her parents in their own home" — Sapa



IFP group attacked before it could get 'muti'

PORT SHEPSTONE: Inkatha Freedom Party supporters, who have shunned Truth and Reconciliation Commission hearings since the first of these in April, have given evidence here about a massacre four years ago

Ten IFP members, one of whom was seven months' pregnant, died and scores were wounded in the September 1992 attack at Nswangwini near here

Ms Thokozile Dlamini, head of the Nswangwini branch of the IFP Women's Brigade, said yesterday that on the evening of the attack, youths had gathered at her house to wait for transport to a youth conference in Ulundi

An IFP leader, Mr Steven Gcaba, told two of the young men to ask an induna for muti to prevent misfortune. The group was afraid of being attacked

"All of a sudden there was a short burst of gunfire. It was followed by continuous automatic gunfire. There was pandemonium. Children were screaming"

Her daughter, Thandekile, who was seven months' pregnant, was among those who died, Dlamini said. Two people who came running towards her house in response to the gunfire were also shot dead. Survivors had claimed some of

the attackers were in police uniform. Others were in camouflage.

She had developed a nervous disorder and had been receiving medical attention since the attack, Dlamini said

"My soul has never been at rest because the killing of these children at my home and under my guardianship has burdened me with guilt, particularly when I see their parents," she wept — Sapa

Chiefs armed, says woman

BD 15/8/96

PORT SHEPSTONE — The truth commission heard yesterday that guns supplied to chiefs by the former Kwazulu government were used to kill ANC supporters.

Testifying on the final day of the body's human rights violation hearings in Port Shepstone, Busisiwe Cele said that on April 15, 1991, her 18-year-old son Lolozi had been shot dead in her home while she was at a nearby hospital with another shooting victim.

She said a man known as Mpangele had later appeared in the Scottburgh Magistrate's Court charged with 10 counts of murder and attempted murder, including that of Lolozi. (252)

"Evidence led at the trial said Mpangele had been supplied with a G-3 automatic assault rifle by Gatsha (IFP president Mangosuthu) Buthelezi in order to help chief Aaron Ndwalane get rid of amqabane (ANC-supporting comrades) in the area."

Sizakele Gertrude Ngwane, an IFP Women's Brigade member, told how her husband, Joseph, and three-year-old son Zibukele were killed on February 12, 1983 by a relative because of his anti-IFP stance. — Sapa

IBA releases report on radio complaints

Ingrid Salgado

THE NP in KwaZulu-Natal blundered recently when it complained to the Independent Broadcasting Authority (IBA) that a radio station had called on people to celebrate the incorporation of East Griqualand into the Eastern Cape, warning that latecomers to a rally in Kokstad would not qualify to receive farms in the area.

The IBA's monitoring and complaints committee dismissed the objection to Radio Transkei's alleged misleading reporting. After listening to recordings of the bulletin, it found that the station had merely broadcast that a rally would be held in Kokstad to celebrate the findings of the Trengove commission into Eastern Cape and KwaZulu-Natal border disputes.

No reference was made to farms in East Griqualand, the committee — a part-time body headed by Adv Jules Browde SC — said in a mid-year report released this week.

The committee's complaints department has recorded rising numbers of objections and queries from the public since its establishment last May.

Its function is to adjudicate complaints and investigate contraventions of the IBA Act, code of conduct and licence conditions.

This year it actively monitored local government election coverage in the Western Cape and KwaZulu-Natal.

bd15/8/96

The NP in Atlantis, Western Cape, was unable to prove objections to alleged unfair coverage in the runup to elections in the province. The party's local branch complained that Radio Atlantis had refused the NP air time while giving other parties air time.

The station had provided sufficient proof that the NP was given a chance to present its views, the committee found. But it was unable to rule on allegations that the station's manager had ripped down NP campaign posters as this was not within the IBA's jurisdiction.

The committee received several complaints relating to alleged transgression of the IBA's code of conduct for broadcasters. Right-wing station Radio Pretoria came in for a lashing from a complainant, who said the station's "Kommenaar" programme was offensive, vicious and incited violence.

Radio Pretoria in turn alleged the complainant was prejudiced and had misinterpreted the programme. The committee listened to recordings of the show and was satisfied with the station's explanation.

Another complaint led to the suspension of religious station presenter Tony Louw, who allegedly accused management at Radio Kingfisher of saying Catholics were not Christians.

Voice of Soweto received several warnings. It had not kept recordings of programmes and failed to involve the community in its management.

Policeman 'killed men to end career of terror'

DURBAN — A former policeman yesterday told the truth commission that he was congratulated by a superior officer minutes after he had executed two suspected ANC members and criminals next to a road near Empangeni in northern KwaZulu-Natal.

Hendrik Jacobus Steyn, 34, told the commission's amnesty committee sitting in Durban how he shot the two men dead on the side of the road on August 14 1992. Steyn is serving an 18-year prison sentence for killing the two men, and has applied for amnesty.

Steyn said he executed Michael Mthetwa and Simon Msweli because "they were known gang members who had at least 21 murder charges and 35 attempted murder charges against them."

Steyn, a former detective warrant officer in the Empangeni murder and robbery unit, said he and four other policemen were on their way to a shooting incident in the Kwambonambi area in which the two alleged ANC members had been involved.

On the way they were passed by a police bakkie with two policemen in the front and two SA Defence Force members in the back. Also in the back were Msweli and Mthetwa, who had been wounded in a shootout and arrested.

"I realised immediately that although they were injured, this was not the end of their career of terror," Steyn said.

Because Msweli had previously escaped from custody, Steyn said he decided to act. The two men were offloaded next to the road and he shot them both dead with five rounds from his R-5 rifle.

Steyn said when he arrived in Kwambonambi he told a Col Nel what had happened, and Nel congratulated him.

Steyn told the two SADF members who were present at the killing to say "the men had died on their way to hospital."

At the time, Steyn said he was an IFP supporter and although the ANC had been unbanned, the fight against terrorism continued.

Steyn said yesterday that he regretted the act. "I have remorse in the fact that I ever joined the police as a career. At the end of the day what I have done was not at all worthwhile," Steyn said — Sapa.

was not at all worthwhile," Steyn said — Sapa

'Men in police uniforms killed youths'

Stephané Bothma

PRETORIA — A Mamelodi man who in 1986 escaped the so-called KwaNdebele massacre in which nine youths were gunned down before their bodies were set on fire told the truth commission yesterday he had seen men in police uniforms shooting his friends

Victor Sithole escaped death by spending the night with a girlfriend three houses from where the youths were killed

He told commission chairman Archbishop Desmond Tutu and other commissioners that about 20 people had been recruited to go from Mamelodi to KwaNdebele to protect the area from taking independence from SA and to protect ANC businessmen in the area subjected to police harassment.

"After KwaNdebele, we were promised MK training in Lusaka," Sithole said

In KwaNdebele, they had moved into the house of Johanna Skosana, who had given

them dagga to smoke "but never food"

They had also met a black man driving an Isuzu bakkie who sometimes gave the youths money and offered them assistance to cross to Lusaka after completion of their KwaNdebele mission

On June 14, Sithole decided to spend the night with his girlfriend. Shortly after midnight they had heard gun shots.

"I looked through the window and saw police vehicles belonging to the KwaNdebele police in front of Johanna's house. I also saw men wearing police uniforms shooting towards the house where my comrades were sleeping," he said

The Isuzu bakkie driven by the man who had promised assistance, was also on the scene. Sithole said he suspected that Skosana had also somehow been involved in the massacre

"It is just obvious that some people are bad news," he said

Skosana, who also testified before the

commission, said the community and the parents of the youths killed in her house had accused her of being a witch.

"They looked at me like I am an animal," she said, thanking the commission for the opportunity to clear her name. Skosana lost a brother in the killings.

She testified that she had repeatedly warned the youths about the stranger who offered assistance, saying that he looked like a policeman.

Sapa reports Skosana said the youths, including her brother, had been sleeping in her house on the night of June 14 1986.

At about midnight she had heard people opening the front door. "Suddenly there was gunfire in my house. I opened my bedroom door and saw two men wearing blue/grey police uniforms. They were standing in front of the bedroom where the boys were sleeping and were firing at them."

Skosana said she heard one of the attackers say "watch out" in Afrikaans.

(252)

BD 15/8/76

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TRC to call known perpetrators to account

Nov 15/8/96

(252)

Commission will subpoena those believed to be involved in human-rights abuses if they do not come forward voluntarily

By ROBERT BRAND

The Truth and Reconciliation Commission will start taking steps before the end of this month to subpoena known perpetrators of human-rights violations who refuse to co-operate with the commission, vice-chairman Dr Alex Boraine has announced.

Admitting that the commission has been feeling public pressure over its failure so far to call perpetrators to account, Boraine said a decision has been taken to start acting forcefully against those who could supply vital information.

Perpetrators who refuse to provide information voluntarily will be subpoenaed to give evidence, he said after a public hearing in Pretoria yesterday.

Since the commission started its public hearings in April, it has focused on victims rather than pinpointing and exposing perpetrators. It was also obliged by law to allow perpetrators the opportunity to come forward voluntarily to apply for amnesty.

"We have been encouraging

victims to tell their stories and perpetrators to apply for amnesty but we can't continue in this way without jeopardising the process," Boraine said.

"Where we are pressured to find out what happened, we have decided to consider using our other powers in terms of the (National Unity and Reconciliation) act."

The commission is empowered to subpoena witnesses to give evidence in camera or in public, to search premises and to seize relevant documents.

Boraine said specific known perpetrators who had not yet applied for amnesty would be identified today and the commission's investigators would be given until August 29 to prepare for action against them.

They would first be invited to provide information voluntarily. "If they don't, we'll subpoena them," he said.

Boraine's statement followed evidence by relatives of nine Mamelodi teenagers who were lured to KwaNdebele in 1986 with

promises that they would be smuggled to Lusaka for military training. The youths were then massacred.

Several of the witnesses asked the commission to find out who was responsible for the killings and to call them to account.

The incident is among those listed by 22 senior policemen who approached the commission recently about the possibility of applying for amnesty.

Former Vlakplaas policeman Joe Mamasela has also confessed to his involvement in the massacre.

Boraine would not confirm or deny that the 22 policemen or Mamasela were among those who would shortly be targeted for tougher action.

"We have lists of names not only from here but from all over the country."

"The lists include perpetrators named by their victims at public hearings and former security force members who have confessed their involvement in human-rights violations to the media or attorneys-general," he said.

Sowetan 15/8/96

Uniformed police killed nine youths, TRC told

(252)

A WOMAN suspected by her community of complicity in the 1986 massacre of nine youths in the former KwaNdebele homeland told the Truth and Reconciliation Commission yesterday that she had been branded a witch by the victims' parents

"They still don't talk to me today," Mrs Johannah Skhosana told the TRC hearing in Pretoria "If they see me on the street they act as if they see an animal. They say I am a witch"

Skhosana told the commission that gunmen wearing police uniforms had shot dead the nine youths, who had been sleeping in her house at Vlaklaagte, before setting the building alight She said her brother Ezekiel had been among the victims

A second witness, Mr Victor Sithole, disputed Skhosana's version of the attack, saying Ezekiel was still alive "Her story is concocted I know she was involved" He claimed she had directed the police to her home.

Mrs Sophie Maifadi, whose son Benjamin died in the attack, testified that Skhosana had told parents that she had not witnessed the massacre.

The victims were members of the ANC Youth League from Mamelodi near Pretoria.

Skhosana said about midnight on June 14 1986 she heard people opening the front door.

"Suddenly there was gunfire in my house. I opened my bedroom door and saw two men wearing blue/grey police uniforms They were standing in front of the bedroom and were firing at the boys," she said.

After returning to her bedroom, she and her baby Martha and her 16-year-old daughter Emma fled through a back window to a neighbour's house From there she saw the house was burning

"At about 4.45am I arrived at my house and went straight to the room that had been burning," she said. "The whole place was smelling of meat. I found all nine boys dead. Some were so badly burnt their legs were just ashes"

Skhosana said the community shunned her because they suspected she had collaborated with police - *Sapa*.

THURSDAY
AUGUST 15, 1996 ★

BORAINE REACTS TO PUBLIC PRESSURE

TRC to subpoena 'listed' witnesses

ET 15/8/96

252

PRETORIA: Perpetrators of human rights violations who refuse to provide the TRC with information voluntarily, are to be subpoenaed

THE Truth and Reconciliation Commission will start taking steps before the end of this month to subpoena known perpetrators of human rights violations who refuse to co-operate with the commission, vice-chairman Dr Alex Boraine has announced

Admitting the commission has been feeling public pressure over its failure to call perpetrators to account, Boraine said a decision was taken at the weekend to start acting forcefully against those who could supply vital information

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Since the commission started its public hearings in April, it has focused on victims rather than pin-pointing and exposing perpetrators. It was also obliged by law to allow perpetrators the opportunity to come forward voluntarily to apply for amnesty

"We have been encouraging victims to tell their stories and perpetrators to apply for amnesty but we can't continue in this way without jeopardising the process," said Boraine

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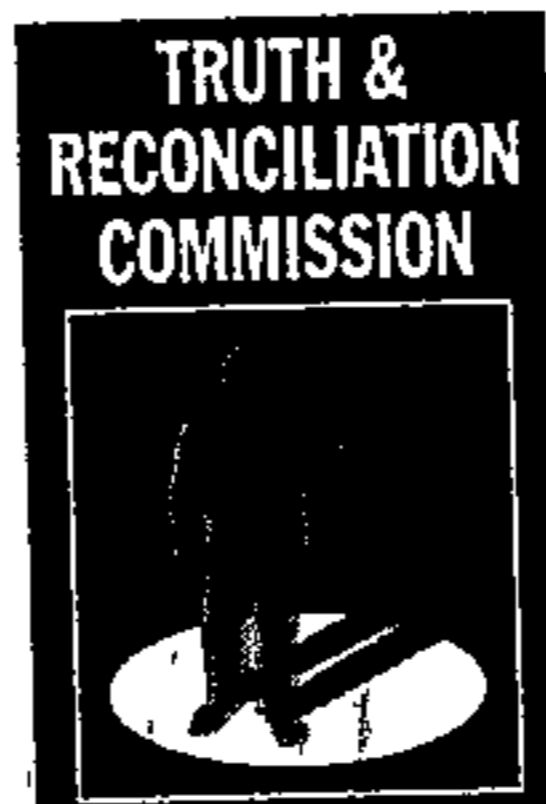
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Former Vlakplaas policeman Joe Mamasela has also confessed to his involvement in the massacre

Boraine would not confirm or deny the 22 policemen or Mamasela were among those who would be targeted for action

"We have lists of names, not only from here, but from all over the country," he said — Own Correspondent



Woman branded a witch after youths massacred

(252)
CT 15/8/96

PRETORIA A woman suspected of complicity in a 1986 massacre of nine youths in former KwaNdebele told the Truth and Reconciliation Commission yesterday that she had been branded a witch by the victims' parents

"They still don't talk to me," Ms Johannah Skhosana said "If they see me on the street they act as if they see an animal"

Skhosana earlier told the commission gunmen wearing police uniforms had shot dead the nine youths in her Vlaklaagte home before setting the building alight

Her brother Ezekiel had been among the victims, she said

A second witness, Mr Victor Sithole, disputed Skhosana's version of the attack, saying Ezekiel was still alive

"Her story is concocted. I know she was involved," he said

Ms Sophie Maifadi, whose son Benjamin died in the attack, testified that Skhosana had told parents that she had not witnessed the massacre

The victims were members of the ANC Youth League

Skhosana said the youths, including her

brother, had been sleeping in her house on the night of June 14, 1986

About midnight she heard people opening the front door She heard gunfire and saw two men wearing blue/grey police uniforms firing at the boys

She and her baby Martha and her 16-year-old daughter Emma fled through a back window to a neighbour's house From there she saw the house was burning

She returned at 4 45am

"The whole place was smelling of meat I found all nine boys dead Some were so badly burnt their legs were just ashes"

Skhosana said the community shunned her because they suspected she had collaborated with the police

She asked the commission to ensure that the perpetrators were sent to prison

But Sithole said Skhosana had been giving the youths dagga, and claimed that she had directed the police to her home

Maifadi said she was suspicious because only the room where the youths were killed had been burnt

"The children of the house owner were also unharmed," she said — Sapa

Mom, wife tell of ANC deaths

POPE SHEPSTONE was applied to chief by the former Frelimo government or used to kill ANC supporters the Truth and Reconciliation Commission heard here yesterday

Mr Buziwe Cele said on April 15 1991 her 15-year-old son Fobane was shot dead in her home while she was at hospital with another brother victim

A man known as Mprazole later appeared in court on 19 counts of murder and attempted murder including that of Fobane

Evidence filed at the court hearing said Mprazole had been supplied with automatic rifle by chief of the IFP president Amosuthu Buthe to help fight non-aligned members of the army ANC supporting comrades in the area Cele said

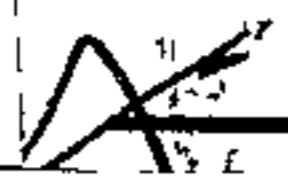
Mr Shepstone was an IFP

Woman's Brigade member from Umzimbe near here told the commission yesterday how her husband Joseph was killed on February 12 1993 by a relative because of his anti-IFP stance

She said her husband had not approved of her attending meetings called by chief of Umzimbe Ekhawula

Her now-15-year-old son said IFP members tried to attend the meetings because the chief used to discuss there that were of interest to me and we were often asked to go to Umzimbe to attend tribal meetings she said

As she said her husband told her to stop attending IFP meetings because he did not want her to leave the children alone Later learned that he had been a UDF sympathiser and that resulted in him being drafted in the area and subsequently killed — Sapa



THURSDAY
AUGUST 15, 1996 ★

BORAINE REACTS TO PUBLIC PRESSURE

TRC to subpoena 'listed' witnesses

ET 15/8/96

(252)

PRETORIA: Perpetrators of human rights violations who refuse to provide the TRC with information voluntarily, are to be subpoenaed.

THE Truth and Reconciliation Commission will start taking steps before the end of this month to subpoena known perpetrators of human rights violations who refuse to co-operate with the commission, vice-chairman Dr Alex Boraine has announced.

Admitting the commission has been feeling public pressure over its failure to call perpetrators to account, Boraine said a decision was taken at the weekend to start acting forcefully against those who could supply vital information.

Perpetrators who refuse to provide information voluntarily will be subpoenaed to give evidence, he said after a public hearing in Pretoria yesterday.

Since the commission started its public hearings in April, it has focused on victims rather than pin-pointing and exposing perpetrators. It was also obliged by law to allow perpetrators the opportunity to come forward voluntarily to apply for amnesty.

"We have been encouraging victims to tell their stories and perpetrators to apply for amnesty but we can't continue in this way without jeopardising the process," said Boraine.

"Where we are pressured to find out

what happened, we have decided to consider using our other powers in terms of the (National Unity and Reconciliation) Act."

The commission is empowered to subpoena witnesses to give evidence in camera or in public, to search premises and to seize documents.

Boraine said known perpetrators, who had not yet applied for amnesty, would be identified today and the commission's investigators would be given until August 29 to prepare for action against them.

Boraine's statement followed evidence by relatives of nine Mamelodi teenagers who were lured to KwaNdebele in 1986 with promises that they would be smuggled to Lusaka for military training. The youths were then massacred.

Several of the witnesses asked the commission to find out who was responsible for the killings and to call them to account.

The incident is among those listed by 22 senior policemen who have approached the commission about the possibility of applying for amnesty.

Former Vlakplaas policeman Joe Mamasela has also confessed to his involvement in the massacre.

Boraine would not confirm or deny the 22 policemen or Mamasela were among those who would be targeted for action.

"We have lists of names, not only from here, but from all over the country," he said — Own Correspondent



Truth body distraught

CAPE TOWN — The truth commission had almost been overwhelmed by the "depth of depravity and ghastliness" of people's accounts of human rights abuses, chairman Archbishop Desmond Tutu said in the body's interim report released yesterday.

"We thought we knew the extent of the evil that was abroad in the dark days of oppression and injustice," Tutu said.

The publication of the 70-page report on the objectives, administrative structure, staff, budget and work of the commission was authorised by President Nelson Mandela. In a preamble to the report, Tutu said the commission had been humbled and moved by the "incredible nobility and generosity of spirit seen in the hearings".

However, it had also noted the pattern of callousness among the police, who had given relatives of abuse victims the "run-around".

Meanwhile it was announced that special women's hearings will be held around the country by the commission to encourage women to speak out about human rights violations — Sapa.

Commission told of hit squad actions in Europe

(252)

BD 16/8/96

Stephané Bothma

PRETORIA — SA hit squads had roamed western Europe during the mid-1980s in search of ANC officials, former ANC envoy to the Benelux countries, Godfrey Motsepe, told the truth commission yesterday.

Motsepe, now a foreign affairs department director, said these hit squads twice made attempts on his life while he was stationed in Brussels in 1988.

He suspected that the same group had been responsible for the killing of Dulcie September in Paris during the same year.

On February 4 he was shot at and on March 27 a 17kg bomb with a timing device was discovered outside his office, he said.

These hit squads operated in collusion with right-wing members of the Belgian security police, Motsepe claimed.

He said it would have been impossible to bring firearms and 17kg of explosives into a country without the assistance of that country's security forces.

Motsepe said he knew the identity of the man who fired two shots at him through a window of the ANC's Brussels office.

"He is a retired police captain now living in Cape Town," Motsepe said.

The commission heard that despite the attempts on his life, Belgian authorities refused Motsepe permission to carry a weapon for self-defence and also refused permission for ANC security personnel from Lusaka to enter the country to protect him.

Asked about SA embassies in Europe at the time, Motsepe said the role of the embassies was "far from being diplomatic".

"The embassies were dens of iniquity," he testified. He said those responsible did not belong in the new SA and should be behind bars.

In other testimony, a Pretoria woman whose relative was killed in 1986 told the commission she would hate the police for the rest of her life.

Philla Moima said her grandson, George, was shot by police at the funeral of a friend on February 8, 1986.

"Today I can say the police are my enemies. They have swept away our children. I will hate them until I die," Moima said.

She was one of several parents from townships around Pretoria who on the last day of the commission's hearings in Pretoria recounted the murders or disappearances of their children in the 1980s.

Some also told of harassment by police hunting their children for political activities. Moima said her grandson had been shot six times in the head.

William Phatlane told the commission his son, Lucky, had been shot from a troop carrier at Pehndaba, outside Pretoria, on November 10, 1990.

"I was told he then ran into a house, followed by two policemen. They forced a gun barrel into his mouth and shot him dead," he said. Lucky's four-year-old sister was with him at the time.

Piet Tshoba of Atteridgeville said he received a telephone call in May 1992 telling him that his son, Jan, had been shot dead. Jan was a member of the Pan Africanist Congress, and had earlier been threatened with death by police.

"When my daughter, Frieda, called the police to report the murder, they laughed," he said.

"After Jan's death police never stopped harassing us."

'Only the wilfully blind can dispute TRC fairness'

ROGER FRIEDMAN

(252)

CT 16/8/96

ONLY the wilfully blind would refuse to acknowledge the evenhandedness and independence of the Truth and Reconciliation Commission, chairperson Archbishop Desmond Tutu told President Nelson Mandela in the commission's first interim report, released by the President's office yesterday

"While most people would draw a moral distinction between violence used to maintain an unjust system and violence to oppose that system, the law governing the commission recognises no such distinction," said Tutu, referring to the evidence given at the commission's Human Rights Violations Committee hearings.

Although it was premature to definitively evaluate the evidence, patterns were beginning to emerge. One could not fail to notice the callousness of some police personnel "who gave bewildered people a run-around", and collusion "be-

tween some elements in the judicial system (and) some members of the medical profession" had been noted

"We thought we knew the extent of the evil in the dark days of oppression and injustice. We have, however, almost been overwhelmed by the depth of the depravity," he said.

"We hope that the commission will contribute to the process of healing a wounded people. We open wounds in order to cleanse them, to deal with the past effectively and so to close the door on that dark and horrendous past for ever. Together we can then turn to the present and the future."

According to the President's office, Mandela "recently took cognisance" of the report and had approved its release

The report largely deals with the administrative structure and composition of the commission. It also includes summaries of the public hearings before May 23

Vlakplaas trio in pre-court amnesty bid

JOHN YELD
Staff Reporter

(251)
ARG 17/8/96

THE Truth and Reconciliation Commission (TRC) will arrange a special amnesty hearing for former police Vlakplaas "hit-squad" commander Dirk Coetzee and two of his men before they appear in court again on December 2.

In another development, the Inkatha Freedom Party has had a change of heart and has told the TRC it now wants to make a submission in line with the other political parties represented in Parliament.

From Monday to Thursday next week, the Freedom Front, African Christian Democratic Party, Pan Africanist Congress, Democratic Party, National Party and African National Congress will, in that order, explain their policies and political philosophies to the commission at a special hearing at the Good Hope Centre.

This will help the commission frame a context for deciding whether gross human rights violations were committed with a political motive - a key factor in the granting of amnesty to perpetrators and in formally declaring people victims of such abuses.

Previously, the IFP rejected the commission as hopelessly flawed and biased, and declined to co-operate with it.

The IFP's turn-around was revealed at a press conference yesterday at which commission chairperson Desmond Tutu also announced he would be approaching the Chief Justice and the Judges President of the various Supreme Court divisions, to work out with them how certain judges could be called to testify before the commission.

The commission would in

future hold "institutional" hearings in addition to hearings for individuals, and representatives of both the legal and medical professions would be invited to testify.

Mr Coetzee, Almond Nofomela and David Tshikalanga appeared in Durban Regional Court on Thursday after being arrested in connection with the 1981 murder of Durban human rights lawyer Griffiths Mxenge.

No charges were put to them and they were not asked to plead, although all three men had previously publicly acknowledged and, or testified to the Harms Commission of their involvement in the killing.

Mr Coetzee was bitterly outspoken about his arrest, saying he had applied for amnesty months ago. He would advise other perpetrators in the former security forces not to apply to the TRC because they were also likely to be arrested.

Archbishop Tutu said the three men's appearance in court this week and the subsequent postponement of their trial had overtaken a recommendation by the commission's human rights violations committee that the relevant attorney-general be asked to suspend any court proceedings in their case.

The full commission had decided that an amnesty hearing should be arranged for them before December 2 - the date of their next appearance in court. Commission deputy chairperson Alex Boraine said there had been "technical difficulties" in Mr Coetzee's amnesty application form, which had been submitted with a "book" of information. "The main purpose is to make things easier for others to apply for amnesty

Turn to page 2



TRUTH COMMISSIONERS: Archbishop Desmond Tutu, right, and Dr Alex Boraine

Commission takes a change in direction

(252)
From page 1

ARG 17/8/96
Unless we have victims and perpetrators coming forward, we will have failed in our job."

This decision marked a significant change of direction for the commission, Dr Boraine said.

It would operate similarly for others directly involved in human rights abuses and who had either applied for amnesty already or who intended applying.

This would create "an entirely new window" on human rights abuses and provide a new emphasis for the commission.

"What we need is information, and we think we can get it from these sources," Dr Boraine said.

He said a list had been drawn up of people whom the commission wanted to testify, and invitations to them would be sent as soon as the commission's

legal counsel was satisfied with the procedures.

People on the list included those whose names had been mentioned during hearings, as alleged perpetrators, of human rights violations such as torture and attacks, including "extremely gruesome tales of massacres".

Such testimony was likely to be in camera initially, Dr Boraine said.

If they did not appear voluntarily, the commission would subpoena them.

Archbishop Tutu said while victims were still keen to tell the commission about their sufferings, there was also pressure for perpetrators to testify.

Also, some people were being ostracised for acts they claimed to be innocent of, and such hearings could help them clear their names.

Archbishop Desmond Tutu says certain judges "colluded" in human rights abuses and should appear before the Truth and Reconciliation Commission to account for their actions. CARMEL RICKARD looks at some of the issues raised by Tutu's call

WHEN Archbishop Desmond Tutu, chairman of the Truth and Reconciliation Commission, suggested that certain judges appear to explain their conduct during the apartheid years, he did not mention any names. But he might have had former Chief Justice Pierre Rabhe in mind.

Tutu and the victims appearing before the commission want to know more about the laws permitting detention and why the courts did not do more to protect the rights of detainees, isolated and at the mercy of police interrogators.

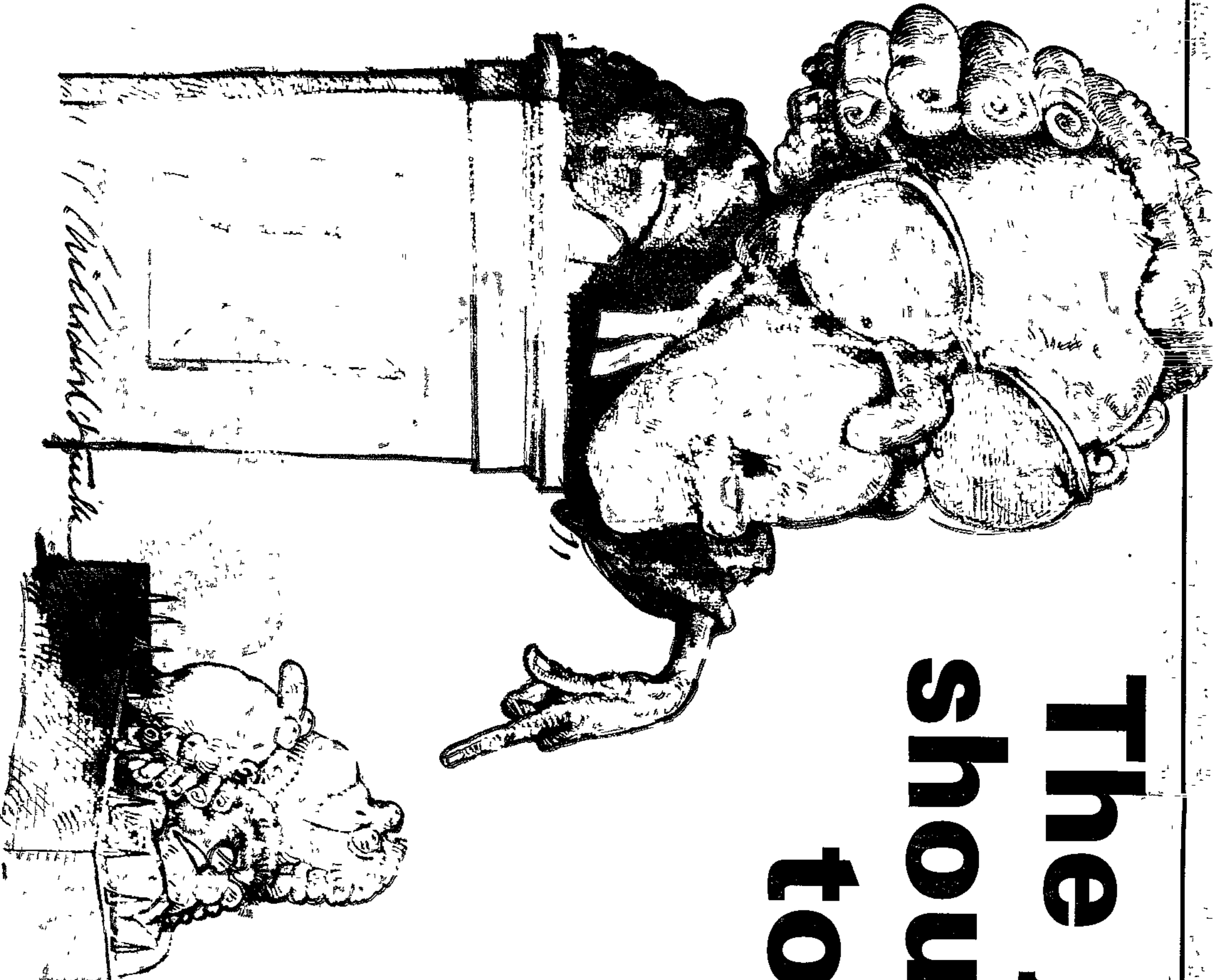
Where better to start than with one of the architects of South Africa's harshest security legislation, who spent the pinnacle of his legal career administering those laws?

Rabhe chaired a commission of inquiry into security legislation and his report on its recommendations, issued in 1982, formed the basis for the dreaded Internal Security Act, passed by Parliament a few months later.

Before the end of 1982, he had become Chief Justice the man who helped craft the security legislation under which so many people were to suffer, then presided over the highest court in the land, implementing and refining those security laws.

For six-and-a-half years, first as Chief Justice, and, after he passed the retirement age of 70, as Acting Chief Justice, Rabhe wielded enormous power over detainees and their fate.

DECISIONS of his court steadily undermined detainees' protection



The judges who should be called to account

Unless something was done to halt abuses, they would have no choice but to quit.

But though brave and unprecedented in South African history, this discreetly channelled judicial *démarche*, kept from the public for almost 10 years, seems to have had little impact.

Writing about the emergency years of 1985 to 1990, Ellmann says: "Between July 1985 and June 1990 approximately 41 700 people were detained under emergency powers.

Some people were held without trial for periods totalling in excess of three years. Among the detainees were a sizeable number of children 17 years of age or less."

He adds that the judges of the Appeal Court, through their decisions, helped shield these detainees from effective scrutiny.

Tutu echoed these words when he commented that certain judges had "colluded in so many ways when they should have been the last bastion against inroads into those few rights people still had".

In the past, some people might have said judges were beyond such a debate, their job was merely to declare and apply the law. No judge had done anything requiring public accountability, much less public confession, and the commission's call was therefore inappropriate.

But this rationale no longer carries weight. It is simply a handy intellectual device that relieves the judiciary of moral responsibility for its actions against alleged police torture of detainees.

record of South Africa's highest court during the apartheid years. This record makes it quite obvious that ideological choices are involved when judges take decisions, and that these choices have played a vital political role.

In all the cases heard by the "emergency team", the court was required to make a choice it could have found in favour of the executive or in favour of individual rights. Every time, human rights lost out.

As Mathews wrote in 1986: "There is a pervasive fallacy that a judge keeps his nose clean by refusing to challenge the use of executive power. The judge who makes a pro-executive decision is as much embroiled as one who prefers to vindicate competing individual rights."

LIKE the "emergency team", many other judges chose different priorities ahead of protection against human rights abuses.

"They, and ultimately the whole legal system, are tainted because of these choices and the apartheid laws that were administered by the judiciary."

However, the taint of a judge who chose to favour the executive rather than the liberty of the individual cannot be compared with the weight shouldered by someone like Eugene de Kock.

An even more important question, given the role of the judiciary and its independence, is whether judges should appear before the Truth and Reconciliation Commission.

(269) ST 11/8/196

Many senior lawyers — even some who fought for individual rights before the "emergency team" and other courts unreceptive to the human rights argument — believe this would not be appropriate and might undermine fundamental principles.

"We should be very careful when we say judges must come to the commission and 'atone,'" says Jeremy Gauntlett SC of the Cape Town Bar.

"This could attack the principle of judicial independence since they are not accountable to anything or anyone but the law."

"Instead of seeking accountability from judges through their 'appearance and atonement' at the truth commission, it would be preferable for writers to subject what happened during those years to more stringent analysis through newspapers and academic articles."

"This would achieve the same result — finding out what happened and why — but without undermining judicial independence."

For a judge to be called to account by a government-appointed commission (even one as politically correct as this) gives the impression that the judiciary is not independent and that its decisions should be made with an eye to pleasing the executive.

While the call by Tutu and some victims for judges to "appear and atone" is understandable, it might not be the best way to achieve one of the most important aims of the commission, namely ensuring that the mistakes of the past are not repeated.

Jos Hefer, Gerrie Viljoen and Chris Jonbert (both retired) and Werner Vivier Ellmann questions how it was that these five like-minded judges dominated all the key emergency cases heard by the Rabhe court. According to his calculations, the likelihood of this was one in 244 million.

Writing about perhaps the most important of these decisions, independent role expected of a court.

"Instead we are treated to a lengthy, uncritical explanation of the point of view of the South African government," he said.

And he concludes that, with the Omar case, the Rabhe court issued "a judicial declaration of martial law."

But criticism by human rights lawyers made little

Among human rights lawyers, Gisker's Judge President Bobby Pickard — who was police counsel in the Biko inquest — came to share the reputation of the "emergency team" after he handed down decisions on security matters which showed the same approach to the protection of individual rights.

By contrast just across the

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against official abuses, and reduced victims, their families and many human rights lawyers to despair

In his book *In A Time of Trouble*, Professor Stephen Ellmann of Columbia Law School describes how responsibility for the Appeal Court's most notorious emergency decisions was shared by a few of its 17 judges.

Rabie and four of his colleagues dominated the security cases heard during his term of office. The five, referred to by Ellmann as "the emergency team", had immense influence and were able to determine the outcome of all the key cases.

The other four judges were

which involved detainee Dullah Omar (now, ironically, the Minister of Justice), Natal University law professor Tony Mathews said the judgment was "a statement of politics rather than a statement of law", and "political" in that it "represents a categorical choice between certain policy alternatives"

In his view, the court made the quite unwarranted choice to assume "moral virtue" in the government's law and order programme

Other legal academics were just as scathing. Professor Lawrence Baxter wrote that the judges in the Omar case did not assert the

difference to the Supreme Courts in most of the provinces and homelands

Judges of these courts took their lead from the Rabie court's decisions, and Supreme Court judgments favouring the protection of individuals against the state became rare exceptions

The judges some apartheid victims say they would like to see before the truth commission include Appeal Court Judge Louis Harms — whose commission of inquiry concluded that police hit squads did not exist — and those who presided over notorious political cases, such as Judge Kees van Dijkhorst of the Delmas treason trial.

Beck of Transkei, stood up strongly against the local military council with several courageous decisions

ANOTHER exception was the Natal Bench, where the pro-human rights reputation of several judges ensured key cases were argued in Durban or Maritzburg, rather than in centres where the Bench appeared to share the approach of the Chief Justice.

After the death of Judge John Milne in 1993, it emerged that he and some of his fellow judges on the Natal Bench had been poised to take unprecedented protest.

SA risks falling to law of the jungle, Boraine warns

JOSEPH ARANES

Staff Reporter

AR 6/8/96

THE LAW of the jungle threatened to rule South Africa, Truth and Reconciliation Commission deputy head Alex Boraine warned after the killing of Cape Town gang leader Rashaad Staggie

Dr Boraine said South Africa was so caught up in a culture of violence that it could easily slip into such a situation

Speaking yesterday after the commission's hearings at the University of the Western Cape, he said the vigilante killing of drug lord and Cape Flats gangster Rashaad Staggie was a tragedy and a further example of a country caught in a culture of violence.

Staggie was murdered when members of People Against Gangsterism and Drugs (Pagad), a militant anti-drug Muslim group, shot him and set him alight.

Dr Boraine said the violence was so close to the surface that it exploded suddenly, whether it was a group of commuters stampeding in a railway station or vigilantes killing drug lords and gangsters

"This violence has its roots in the abdication of the rule of law during the apartheid years, when people who were the victims of repressive rule lost all respect for the law.

"Those who were in charge during those years used the law to oppress others, and the system was controlled by white people and the majority of the country could not identify with it"

He said this deep-seated contempt was emerging more and more at commission hearings and in many cases people who were teenagers 10 years ago were coming forward and telling how they had suffered under the law and resisted it

"Many youngsters joined the struggle and took to the street to protest

"Many of them are now being totally ignored by those in power and many of them (youths) are joining gangs to survive the harshness of their surroundings," Dr Boraine said

PHOTO BY [unreadable]

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APR 6/8/96
**Former
detainee
now judge**

(252)

DENNIS CAVERNELIS

Supreme Court Reporter

NATAL lawyer and acting judge Sandile Ngcobo has been appointed a judge in the Cape Supreme Court

Mr Justice Ngcobo, 43, from Durban, was appointed on the recommendation of the Judicial Services Commission, which sat in Cape Town to interview candidates for courts around the country.

Judge Ngcobo replaces Mr Justice Deneys Molteno Williamson, who died last year.

Judge Ngcobo studied at the University of Zululand, the University of Natal and Harvard Law School in the United States.

He became an attorney in 1981 and joined the Bar in 1988. A former detainee, he became an acting judge earlier this year.

Miss Justice Leo van den Heever, recently retired from the Appeal Court, will replace Deputy Judge-President J J Fagan, who will be on leave for the rest of this court term.

Judge Fagan will be undergoing a hip operation.

Killing linked to failure of justice system

BD 6/8/96

(252)

Wyndham Hartley

CAPE TOWN — Safety and Security Minister Sydney Mufamadi said last night he was concerned about the inability of police to explain satisfactorily why the execution of a Cape Flats gang leader on Sunday night could not have been avoided.

He also criticised provincial safety and security MEC Gerald Morkel for saying he was unable to do anything about gangsters as his powers had been taken away. This, said Mufamadi, was an abdication of responsibility.

A task team of 20 dedicated detectives and a police contingent of about

300 people had been deployed to prevent the situation escalating into "uncontrollable violence".

Opposition parties said the criminal justice system's failure lay behind the execution of Hard Livings gang leader Rashaad Staggie in Cape Town.

Staggie was shot, set alight and shot again repeatedly late on Sunday when a mob from the militant Muslim organisation, People against Gangsterism and Drugs (Pagad), confronted him near his Salt River home. Eighteen people were injured in the shoot-out between hundreds of Pagad members and gangsters.

Western Cape premier Henus

Kriel called for calm but said he understood the frustration of people who acted against gangs. He also called on Justice Minister Dullah Omar to give serious attention to residents' frustrations and demanded that Mufamadi appointed a judicial commission to investigate the killing.

DP justice spokesman Douglas Gibson said his party had repeatedly warned that communities would take the law into their own hands if the criminal justice system failed. People were "sick to death" of crime, gangsters, the inability of police to appre-

Continued on Page 2

Vigilantes (252)

Continued from Page 1

BD 6/8/96
hend criminals and ineffective courts. The DP deplored jungle justice but asked what was expected when crime was clearly seen to pay. He challenged government to prove it was prepared to act against gangsters and criminals.

Omar said crime, gangsterism and drug trafficking could not be dealt with by people taking the law into their own hands. Arresting criminals was the province of police and the community had to co-operate with them to eradicate gangsterism and drug trafficking.

His view was echoed by the ANC, which said it appreciated residents' frustration and anger but that "vigilantism" was not the answer. Communities should work with police. The ANC also called for urgent action from Mufamadi and Omar.

Lawyers for Human Rights said the attack on Staggie was an indictment of the police and the criminal justice system. It condemned the killing of Staggie, but pointed out that Pagad had broad support. Sapa reports the organisation said the execution was an expression of the much larger problem of gangsterism that had held hostage whole communities, handicapped by years of socioeconomic deprivation.

Sowetans spurn 'roadshow'

(252) Pp 6/8/96

WHEN Marjone Mathlare of Rockville in Soweto was asked if she had made a submission to the truth commission when it sat at Regina Mundi church in Rockville recently, her reply was crisp and to the point "What for? Did you want to see me cry and make a spectacle of myself?"

In 1980, on the fateful night when the SADF massacred ANC cadres in Maseru, her son Rocks who was visiting friends in Lesotho was caught in the crossfire

The empty benches at Regina Mundi church have been sad testimony of what Soweto people in general think of the commission — a waste of time and tears

There are those who say the hearings are a "roadshow", where aggrieved people go to make a show of their pain. They further say the commission is toothless and only serves to open old wounds

There are also some who would want to see white people attending the hearings to hear what black people went through during the apartheid years

Instead, as Bernard Kgantsi of Diepkloof township says: "We are once more talking to ourselves about things we know, and in the process we are to reconcile and forgive"

While they do not criticise those who chose to go before the commis-

sion — such as the Ngywenya family of Thami Zulu and Nicodemus Sono and his wife who want to know what happened to their son Lolo — many argue that as those responsible for human rights abuses are of the ruling elite, they will never be brought to book. The culprits will certainly not use the commission to make a clean breast of what happened

The lack of interest in the proceedings at Regina Mundi last month once more demonstrates that Soweto people are a "different breed". They are often accused of being loudmouths, good guests and lousy hosts, materialistic etc, etc

Yet they cannot be said to be phoney or false. Soweto people will not do something simply because it is done in other townships. Someone once said that if necklacing had started in Soweto, there would have been more people necklaced

Although people died in burning tyres in some areas of Soweto, the average Soweto person was never comfortable with the practice. This question of a separate "Soweto culture" might explain why, unlike

NOMAVENDA MATHIANE

hearings in other areas which were packed to capacity, Regina Mundi was nearly empty

Also, Soweto is an unforgiving place. Its residents do not seem to easily forgive and forget. Some leaders who in the struggle days were adjudged to have erred and were ostracised were never again accepted into the township political arena.

There are former leaders who are still stunned by the community simply because they spoke out against the "liberation now and education later" philosophy while their children were attending private schools and schools abroad

Yet it is also true that in some areas people who were part of the homeland structures only had to confess their sins and were forgiven. They are now part of the ruling elite

The truth commissioners, I am told, are surprised that the hearings did not succeed in whipping up interest in Soweto as they did in other areas. In the Eastern Cape town-

of Cradock, for example, although local people had heard the torture and murder stories many times before, they still packed out the venue of the hearings

The Goniwe case further illustrates the point. Just a few years ago, the events relating to the fate of Mathew Goniwe and his friends were heard in court proceedings. Yet many Cradock people still attended the commission to hear the account told over and over again

Some people argue that the presence of television cameras does attract crowds in smaller centres such as Mankeng, Cradock, Maritzburg and Britz. The slow pace of life in such places also means residents will be attracted to out-of-the-ordinary events such as the commission hearings

Could this explain why a number of Eastern Cape women were dressed to the nines when they attended the hearings?

There are those who argue that Soweto people are more politicised and sophisticated and are more likely to focus on "real", current issues

than a reconstruction of the past. They also maintain that Soweto is too large and busy a township for a single event such as the commission's visit to capture much interest. One woman activist suggests, however, that since Soweto suffered so immensely from the student uprisings of 1976, people were now reluctant to revisit that era

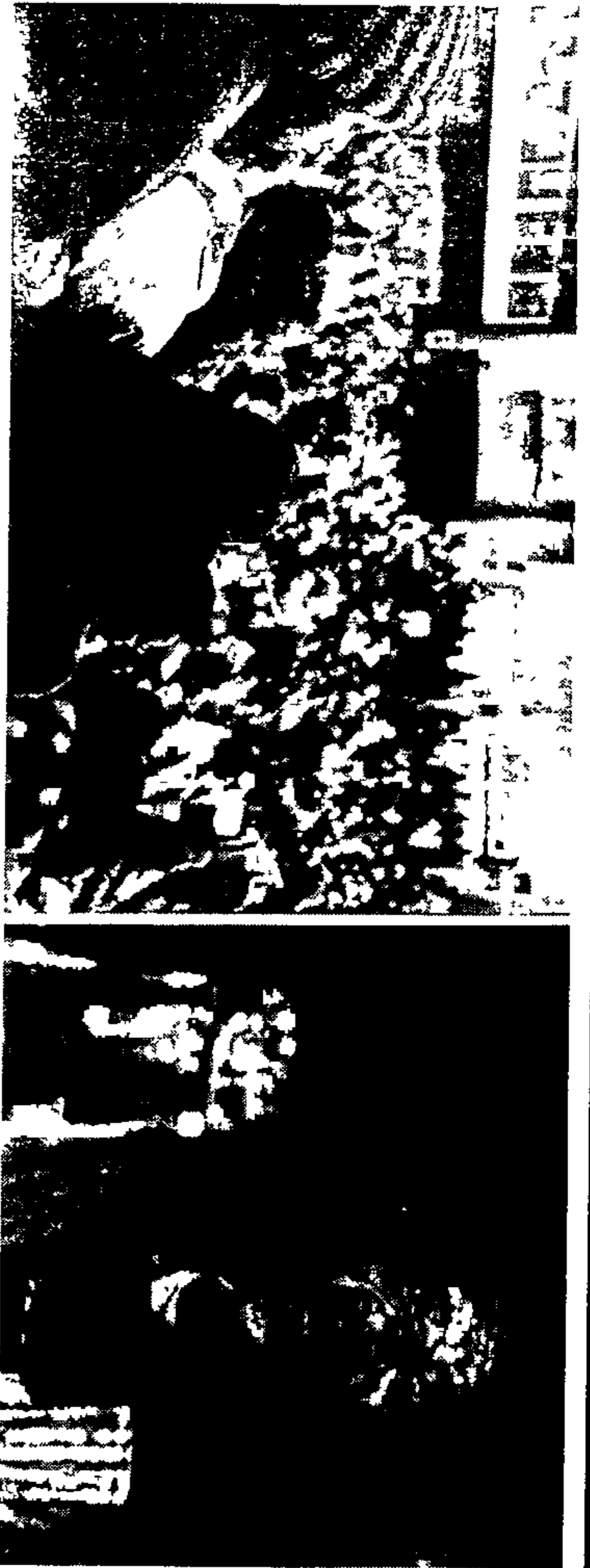
"By the time that other townships joined in the burning, Soweto had been brutalised beyond repair," she says

She went on to say that June 1976 was inexplicable. "Maybe you have forgotten that everyone was immobilised on the morning of June 17. There were no explanations anybody could make except to say that the children were revolting against the use of Afrikaans. And we kept asking ourselves, could Afrikaans lead to this havoc?"

"From that time on there was no turning back. Violence and death became a permanent feature for us, until the political parties were unbanned and Nelson Mandela released and a new order ushered in."

Cynics say that Soweto people are not interested in attending the hearings because they are too busy acquiring wealth. Yet I think I subscribe to the theory that the people want to live and let live

LETTERS



Former ANC exile Lefoka Motokeng testifies before truth commission's human rights violations committee in Sebokeng yesterday on closed circuit television while residents of the township, who filled a hall at the Sebokeng College of Education, look on. Pictures: TREVOR SAMSON

Brain-damaged guerilla forgives tormentors

CAPE TOWN — The anguish of a brain-damaged former Umkhonto we Sizwe guerilla as he struggled to tell his story to the truth commission capped a day of harrowing testimony at the body's hearings at the University of the Western Cape yesterday.

The panel of commissioners chaired by deputy commission chairman Dr Alex Boraine heard 11 cases of human rights abuses, many involving schoolchildren shot by police during the political unrest which swept the Cape Flats in the 1980s.

The testimony of Rebecca Truter, whose 15-year-old son Christopher was shot in the

head by a policeman, prompted Boraine to remark "We are grateful to you for reminding us the high price we have paid for democracy and why it should never be taken for granted."

Matric student Clive Cupido also never made it to adulthood. His mother described how he was shot in the chest at close range by police who then placed bricks next to his body to give the impression he had been involved in stone-throwing.

But it was the testimony of former MK operative Robert Maliti, the last witness to testify yesterday, which moved many to the

verge of tears. Maliti had a simple request — to meet the two policemen who had beaten him as he had forgiven them.

Police arrested him while he was carrying a limpet mine in a bag. The policemen forced liquor down his throat and then beat him severely in the back of a police van as he was driven to his home. "They then left with me for town. All the time they kept kicking and beating me."

Maliti, who has a school named after him in Khayelitsha, said he was no longer able to work. "My request is that the commission should help me financially." — Sapa

252) RD 6/8/96

Tutu might 'force' witnesses to talk

Kevin O'Grady

BD 6/8/96

(252)

TRUTH commission chairman Archbishop Desmond Tutu hinted yesterday that the commission would "use its power" to force policemen and soldiers to give their version of the harrowing tales told to the commission's human rights violation committee.

Speaking after committee hearings in Sebokeng, near Vereeniging in the Vaal Triangle, commissioners said repeated attempts to get former SA Police and SA Defence Force members to "give perspective" to victims' evidence had proved fruitless.

Tutu said: "Perhaps we will use our power (to subpoena witnesses) to get them to give perspective."

Commissioner Joyce Seroka said the committee had gone out of its way "to recruit all the parties, including the police" to testify about events that were being described by victims of abuse. "The police, we were told from a high level, could only come forward as perpetrators applying for amnesty. Police will be encouraged to .. tell their stories as victims."

Commissioner Fazel Randera said the committee wrote to the SAPS ahead of its hearings on events in Soweto on June 16 1976 "and asked them to come and put their side forward, in terms of getting perspective not perpetrators, but we had no response."

Tutu also made an appeal to members of the judicial system to "come .. and say what their part was in perpetuating an unjust system" after the committee heard evidence from Sharpeville Six accused Duma Khumalo, who said he was wrongly sentenced to death for the 1984 killing of a Sharpeville councillor.

"The judicial system should have been the last bastion against inroads into whatever few rights people still had (but) often it was not the case," Tutu said. "We are aware that there are people, even on the bench, who ought to come and tell their story. It won't be held against them, but just to clear the air."

After hearing evidence from two elderly Sebokeng brothers about how they were allegedly injured by gunfire during the Sharpeville massacre of March 21 1960, even though they claimed to be apolitical, Tutu said it was "mind boggling" how often victims were "ordinary, apolitical people".

ANC bomber forgiven, blast victim tells truth commission

Kevin O'Grady

A DOMESTIC worker who was severely injured in a bomb blast in Amanzimtoti, near Durban, in 1985 in which a child in her care was killed, told the truth commission yesterday she had forgiven the ANC and one of its members for planting the bomb.

Hluphekile Nkabinde lost an eye and was injured in a leg while taking her employer's children to the shopping centre where the bomb blast occurred, she said. She was with her employers on holiday from Vereeniging, in the Vaal Triangle, at the time.

Testifying before the commission's human rights violations committee in Sebokeng, near Vereeniging, Nkabinde said of the culprit: "I do forgive him (as) my not forgiving him won't help me in any way."

The bomber, Andrew Zondo, was executed for his role in the attack on December 23 1985. Willem van Wyk, the young son of Nkabinde's employer, was killed in the bombing and his sister injured.

Nkabinde said the incident had wrecked her relationship with her employer, and she was fired. Her injuries, and her many subsequent operations, had prevented her from obtaining other employment.

BD 6/8/96 (252)



On the first day of the week-long public hearing into the stampede at Tembisa station where 16 people were killed, Cornelius Maponya, right, tells how he was almost crushed under a mass of people Pictures: ROBERT BOTHA

Witness asks for protection

Nomavenda Mathiana (252)

BD 6/8/96
A WITNESS at the commission of inquiry into last week's Tembisa railway station disaster yesterday asked for police protection following threats by strangers objecting to his saving commuters who had fallen onto the railway line.

Patrick Manele yesterday told the commission sitting at the Kempton Park Civic Centre that last Wednesday morning he had accompanied his girlfriend to the station and was abused by security guards even before he could buy her a ticket.

He said the security guards said they were going to fix the Tembisa "dogs who were troublesome and did not want to buy train tickets" After buying the ticket, he found himself trapped between the guards at the bottom of the stairs and the hundreds of commuters who were pushing their way down onto the platform.

As the train approached, pandemonium erupted between commuters and security guards who had started using electric prods.

Some commuters had fallen onto the railway line Manele had jumped onto the line and carried them out of harm's way, he said.

Another witness, Cornelius Maponya, said security guards had told him they did not want anybody at the top of the stairs and instructed him and other commuters to move to the train platform. But he could not move because of the crowds waiting to be allowed through When the guards opened the gates, there was a stampede, he said.

Another commuter, Caprus Maroreng, said he did not understand why he was electrocuted as he had a ticket. Witnesses said only two of the four windows where tickets were sold were open.

The hearing continues today

Mandela's fund earns R20,5m for children

Stephané Bothma BD 6/8/96

PRETORIA — Yesterday was not only an exceptional day for President Nelson Mandela because he could announce that his Children's Fund had reached the R20,5m mark It was also the day on which he was arrested by security police 34 years ago, resulting in his 27-year jail term

Releasing the first annual report of the Nelson Mandela Children's Fund at his official residence, Mandela recalled details of his 1962 arrest by Natal security policeman, a Sgt Vorster.

"The police were very polite. In those days the Natal police were the most polite in the country," he told amused trustees and members of the media.

Mandela said the generosity and goodwill of all the communities of SA, including apartheid supporters, still surprised him — six years after his release from prison. "It appears I did not know my country well," he said.

He started the fund by pledging a third of his annual salary

(R150 000) for five years.

During the past financial year, ending March 31, 56% of total funds received were from overseas, including two donations by individuals Denzel Washington and Teddy Forstman of \$1m each.

Large local pledges include those of R150 000 or more by members of the President's Club such as the Donald Gordon foundation, the SG Menell Trust, Anglo American, Rembrandt, Sanlam, Standard Bank, Sun International, Iscor, M-Net, Transnet, United Tobacco and others.

Smaller donations were a R1 a month pledge by a pensioner and R2 400 raised by three children who sold Labrador puppies.

To date, the fund had made grants totalling R3,4m towards the homeless, education, the disabled, young offenders, disaster relief and places of recreation.

It had to distribute or use at least 75% of its net income for the current year within the next 12 months, while 25% may be transferred to distributable reserves, CE trustee Jeremy Ractliffe said.

Govt may hold bogus degree inquiry

Farouk Chothia

DURBAN — The University of Zululand would welcome a government-appointed commission of inquiry into the scandal over bogus degrees being sold at the institution, university rector Prof Charles Dlamini said yesterday

This was despite the fact that the university had appointed independent auditors to assist in an

internal investigation.

Students had expressed fears last week that the internal inquiry would be a cover-up, and had called on Education Minister Sibusiso Bengu to intervene.

Education department deputy director-general Ithron van Rensburg will visit the university today to try to reach agreement on a mutually acceptable way to investigate the scandal.

BD 6/8/96

Satchwell set for Transvaal bench

BD 6/8/96 (252)

Susan Russell

JOHANNESBURG attorney Kathy Satchwell is one of three women lawyers whose names have been put forward for appointment to the bench as judges, Judicial Service Commission chairman and Chief Justice Michael Corbett announced yesterday.

Satchwell, who made a name for herself representing fellow activists during the apartheid era, was the only attorney among the nine names announced by the chief justice yesterday chosen to fill vacancies in four Supreme Court divisions and in the Appeal Court in Bloemfontein.

Nominees for vacancies in the Cape of Good Hope Provincial Division, the Ciskei Division, Natal Provincial Division, Transkei Division and Transvaal Provincial Division as well as two vacancies in the Appellate Division were interviewed by the Judicial Service Commission in Cape Town last week.

Satchwell and another of the women recommended by the commission, senior counsel Geraldine Borchers, will take up two of three vacant posts in the Transvaal Provincial Division.

The third woman, senior advocate Vivien Niles-Duner SC, has been recommended for one of two available posts on the Natal bench.

Transvaal judges Chris Plewman and Ralph Zulman, both serving as Commercial Court judges in the Witwatersrand Local Division, were rec-

ommended for the two vacancies to the Appellate Division.

The third Transvaal nominee announced yesterday was Philip Boruchowitz SC while senior Durban advocate Philip Meskin has been nominated for the second vacancy in Natal.

The commission has also recommended that Sandile Ngcobo be appointed to the vacant post in the Cape.

Advocate M Madlanga, recommended for the vacancy in the Transkei Division, was, at 34, described in legal circles yesterday as probably the youngest appointment to the bench this century.

Association of Law Societies President Michael Pinnock said the nominations were to be welcomed generally, but particularly those of judges Plewman and Zulman, which he described as "richly deserved".

Referring to Satchwell, Pinnock said the appointment of another attorney to the bench, particularly a woman, was also to be welcomed.

Johannesburg Bar Council chairman Dennis Fine SC also welcomed the three new nominations to the Transvaal bench.

He also praised the nomination of Plewman and Zulman to the Appeal Court, describing both judges as "highly respected and experienced".

Fine said Zulman was known for his experience in commercial law while Plewman was known for his experience in intellectual property matters.

Plot to assassinate Jiyane 'foiled'

Farouk Chothia

DURBAN — IFP secretary-general Ziba Jiyane said yesterday that a plot to assassinate him had been foiled before the IFP national conference held about 10 days ago.

Reacting to a report on the alleged plot, Jiyane confirmed he had been informed of a meeting held to discuss his assassination and had been given the name of a person allegedly involved.

Jiyane said he had received other death threats, but took the latest information "more seriously". However, the alleged plot was not linked to publicly aired differences with IFP hard-liner Walter Felgate over the role of the secretary-general's office, he said.

IFP sources said party members with whom Jiyane had clashed recently over other issues were suspected. The information became available shortly before the conference, and security around Jiyane was stepped up.

Jiyane dismissed speculation that his resignation as secretary-general was imminent, saying he would return to his office after a holiday. He did not know whether his powers as secretary-general were to be reduced.

It was understood that the IFP national council would appoint a commission at a meeting later this month to review Jiyane's powers, and those of other IFP structures, as part of a restructuring effort to place the party on a sound footing for the 1999 elections.

Certain judges should face TRC, says Tutu

(252) Star 6/8/96

Chairman urges some members of the bench to explain their part in perpetuating unjust system of apartheid

By Daisy Jones and Sapa

Certain judges should appear before the Truth and Reconciliation Commission to explain their part in perpetuating an unjust system, commission chairman Archbishop Desmond Tutu said.

He was speaking during the TRC's hearings in Sebokeng yesterday, which concentrated on events in Sharpeville in 1960.

Although Tutu praised many judges, he said certain members of the bench had colluded "in so many ways when they should have been the last bastion against inroads into those few rights people still had".

He did not mention any judges by name, but said the commission was "far too frequently aware that there are people - even on the bench - who ought to come and tell their story, to say what their part was in perpetuating an unjust system".

Tutu said this would not be held against them, but it would help to clear the air.

Among the people giving testimony yesterday was a member of "The Sharpeville Six" who was convicted of murder and spent three years on death row expecting to be hanged.

Duma Khumalo said yesterday he was arrested in September 1984 and later charged with burning to death Vaal Triangle councillor Kuzwayo Dlamini.

In December 1985, Khumalo was convicted of murder, subversion and public violence, and sentenced to death. An appeal against the sentence was dismissed by the Appellate Division in Bloemfontein in September 1988.

Khumalo was granted a reprieve in 1988, and his sentence commuted to 25 years' imprisonment. In 1991 he was released on parole.

Khumalo told the TRC yesterday he had not been on the scene when Dlamini was murdered. He

added he had been psychologically damaged by his years on death row and requested financial compensation to support his family.

Tutu called on members of the judicial system who colluded with the apartheid state to expose their reasons for assisting in oppression.

Other witnesses related how unprovoked acts of violence by the police in the Vaal Triangle had caused long-term suffering for victims and their families.

On a single day in Sharpeville in 1960, 69 people were killed and at least 186 people wounded when police opened fire on an unarmed, singing group of demonstrators.

Brothers Lebetsa and David Ramokhoase said they were shot in their legs by police outside the local police station, where the crowd had gathered to protest against the carrying of pass books.

The hearings, at the Sebokeng College of Education, continue until Thursday.

Assault led to brain damage

(252) CT 6/8/96

EUNICE RIDER

AT the opening of a three-day sitting at UWC yesterday the Truth and Reconciliation Commission heard terrifying stories of police beatings and violence from those who fought apartheid on the Cape Flats in the 1980s

Witness Mr Robert Nana Maliti said he was so severely beaten by ex-murder and robbery squad detective Captain Jeff Benzien and three other policemen in 1988 that he suffered brain damage and is partially paralysed

Speaking with great difficulty and occasionally dabbing at tears,

Maliti told the commission that he was arrested in possession of a limpet mine and a banned newspaper at his home in New Crossroads in 1988. He said he was able to identify two of the four men who repeatedly assaulted him during an interrogation as Benzien and "Trollip"

Maliti told the commission that after about three weeks in Groote Schuur Hospital he was tried and sentenced to seven years imprisonment. He spent more than two years on Robben Island before being released in 1991.

He said he had been a healthy 21-year-old uMkhonto weSizwe

cadre, working as a taxi conductor, at the time of his arrest.

He said he had forgiven the men who had caused his injuries. "I would be happy if they would come back to me and shake hands," he said.

He had once reported the assault to his attorney, intending to lay charges, but the policemen had given his attorney "some money" to pass on to him, he said.

Maliti said he was living on a disability grant.

Warrant Officer Benzien was granted indemnity along with 3 500 other policemen before the 1994 election.

TUESDAY
AUGUST 6, 1996 ★

ACTIVIST STRANGLERED WITH SJAMBOK

Comrade 'ready to explode with hate'

(252) CT 6/8/96

Tortured by police, who told his comrades he had betrayed them, a young activist yesterday told the TRC how he lived a life of terror, pursued by both sides. **EUNICE RIDER** writes

CAPE FLATS activist Mr Colin "Porky" de Souza, who had been a member of the Bonteheuwel military wing of MK, yesterday told the TRC how for years he had dodged the police, was repeatedly caught, interrogated, tortured and threatened by the security police in the 1980s

De Souza said he joined MK at the age of 15 during Operation Vula in 1986 and that his duty was to recruit members for MK

After more than two years of "taking out" policemen, who were seen as the enemy, by shooting and petrol-bombing them, he and about 20 other young comrades were arrested

He said a policeman strangled one of the comrades in front of them with a sjambok and they were then individually interrogated by among others, a Captain Van Bragel, who had introduced himself as the head of the special branch investigating team

De Souza said he was interrogated for nearly two weeks before being taken to a field in Bonteheuwel where a policeman told him that he was "the Wit Wolf of the Western Cape" and threatened to "necklace" him and to hit him with a spade as he had done to activist Ashley Kriel

Earlier testimony from Kriel's sisters, Ms Melanie Adams and Ms Michel Assure, was that physical evidence went against the police version of their brother's death in



NAMED: WO Jeff Benzien

July 1987

They said police claimed their brother, an MK member from the age of 14, was accidentally shot with his own weapon after a scuffle. However, bloodstains on his clothing and large amounts of blood found in the house indicated that he was shot in the house and dragged from room to room

The sisters said they believed their brother was beaten with a spade and killed by the police, who had often threatened to kill him during raids on the family home

They also believed that Warrant Officer Jeff Benzien and Sergeant A Abels had lied in their statements concerning their brother's death

De Souza said after being threatened by the "Wit Wolf" he was moved from one police station to

another where he was beaten and interrogated. He said he repeatedly lost consciousness during the beatings and at one stage was hung against a metal door by shackles on his ankles for three days

He said the police had also given him electric shocks in their efforts to get information. His family also suffered severe strain. His father was very badly beaten and a Dr Sirovsky, whom he believed was a district surgeon, had forced a tablet down his pregnant girlfriend's throat, deliberately causing her to abort their child

De Souza said after the police got word to his comrades that he was an informer, they too tried to kill him and he was constantly on the run for his life, until he was jailed for two years for public violence in February 1988

He said the community had sadly turned its back on the young comrades who had fought against apartheid and many of them had turned to gangsterism

He said he felt responsible for this as he had recruited the youths for MK, and asked the TRC to try and assist them

De Souza's mother, Mrs Dorothy de Souza, told the commission how her family had been ruined and how its next generation would also be affected

She said her son could not work and needed special support "because he is not the same every day"

De Souza himself said he could not hold down a job because he was "so full of hate, like a bomb waiting to go off and who knows what will happen when I explode"

Sharpeville Victim Got R88

Lawyer 6/8/96

(252)

By Mizimasi Ngudle

ONE OF the victims of the 1960 Sharpeville massacre, in which 69 people were killed and 186 injured, told the Truth and Reconciliation Commission yesterday that he had received only R88 in compensation for his injuries.

Mr Lebisa Ramokhoase was the first of 40 victims of the massacre who are scheduled to testify before the TRC's human rights violations committee in Sebokeng this week.

Ramokhoase told the commission he was shot in the hip when police opened fire without provocation on anti-pass law protesters who had marched to Sharpeville police station on March 21 1960.

His brother, Mr David Ramokhoase, who also testi-

fied, told the commission he could not remember whether he had received R30 or R60 in compensation for his injuries.

He showed commissioners his knee, which he said was broken during the massacre.

Recalling the day, the Ramokhoases said they were on their way to work when Pan Africanist Congress members asked them to join the protest march.

Singing Nkosi

As they were singing *Nkosi Sikelel' iAfrika* in front of the police station, a white man jumped out of a car which had stopped next to two armoured police vehicles.

"He shouted 'Shoot!' and chaos ensued. I don't know what happened. I was shot in the leg and taken to the Vereenging Hospital," David said.

Lebisa said he could not

secure a job after the shooting. He was fired every time his employers found out that he had been shot during the protest.

TRC chairman Archbishop Desmond Tutu expressed dismay at the size of the compensation.

"Many victims are like you. You were an ordinary man abiding by the law and who was not involved in politics. On your way to work, you met your fate."

"After such a terrible experience, if you are correct, they paid you only R88. The rand might have been strong then but R88 was no compensation at all, especially when we take into account the loss of your job and subsequent harassment."

Another witness, Mrs Elizabeth Mabona, said she received no compensation for the shooting of her husband, Khehla Ramoena.

TRC's new August schedule

THE new schedule of the Truth and Reconciliation Commission hearings for August

Week beginning August 5:
August 5-7 Helderberg-Tygerberg,
August 5-8 Sebokeng

Week beginning August 12:
August 12-16 Pretoria, August 12-14
Beaufort West, August 12-14 Port
Shepstone, August 12-16 KwaZulu-
Natal (Amnesty hearings)

Week beginning August 19:
August 19-23, Port Elizabeth (Amnesty
hearings)
Cape Town - Political party submission
August 19 Freedom Front and ACDP,
August 20 PAC, August 21 National
Party, August 22 African National
Congress

Week beginning August 26:
August 29-30 Durban, August 26-28
Uitenhage

Commission told of 'Vaal Monster' and vigil massacre

BY DAISY JONES

Much of yesterday's testimony at the Truth and Reconciliation Commission hearing in Sebokeng focused on the activities of Victor Khetisi Kheswa - better known as "The Vaal Monster" - and his alleged involvement in a Sebokeng night vigil massacre which left 38 people dead and 40 injured in 1991.

According to a witness a gang of unarmed Sebokeng youths who specialised in stealing and hijacking Ford vehicles under the leadership of Kheswa were transformed into vigilantes and killers when they were recruited to the IFP.

ANC member Ernest Sotsu lost his wife, daughter and grandson on July 3 1991 when they were shot at close range with AK-47s in their Boipatong home. He told the commission his two grandchildren who survived the attack had positively identified Kheswa as one of the four murderers.

But Mandla Nangalembe - who said his brother Christopher had been abducted by three men driving Kheswa's car, then held at Kheswa's house and found dead the following day - testified that Kheswa might have been in hospital the day Christopher died, as well as on the

day mourners were killed and injured at Christopher's vigil.

This evidence corroborated the testimony of Kheswa's mother, Emma, who said earlier that her son was shot in the stomach by members of a Sebokeng street committee on September 26 1990.

She said that on January 5 and 6 1991, the days of Christopher Nangalembe's abduction and death, and on the day of the Sebokeng night vigil massacre on January 12 1991, her son was in Boksburg Hospital receiving treatment for the infected wounds.

Sotsu claimed that Kheswa was on the police payroll and might have been killed by them.

"The police didn't want him to talk too much," he told the commission, saying Kheswa's involvement with the police was probably one of the main factors which led to his death.

Nangalembe said police had ignored him when he pointed out Kheswa's vehicle on the scene of the vigil massacre. They also ignored the corpses and the wounded, concentrating only on collecting cartridges in the yard, he said.

The hearing continues today when witnesses will testify about the 1992 Boipatong massacre.

May 7/8/96
(252)

Facing up to the task

(252) *Sametam* 7/18/96

NAIROBI, KENYA — EFFORTS ARE NOW under way to turn an inter-governmental watchdog into a mechanism able to help prevent massive human rights violations in Africa

A technical meeting of the African Commission on Human and People's Rights here recently worked out proposals aimed at speeding up and improving its response to emergency situations on the continent

The commission was formed to implement the Organisation of African Unity's African Charter on Human and Peoples' Rights, and came into force on February 5 1987

It has been ratified by all but three African nations (Ethiopia and relative OAU newcomers Eritrea and South Africa) However, it has been unable to address critical human rights situations and help prevent them from deteriorating

The need for it to be more effective is linked to an increase in urgent human rights situations (defined in the charter as "a series of serious or massive violations of human and peoples' rights" or "a case of emergency") in recent years in Africa

"Factually, the range and the number of human rights emergencies in Africa are on the increase rather than the decline," notes Chidi Odinkaru, who heads the Africa desk of InterRights, a London-based human rights organisation

Ethnic violence

The list of nations which, since 1990 have had emergencies — from civil wars and ethnic violence to massive rights abuses by the state — includes Algeria, Angola, Burundi, Congo, Ghana, Kenya, Liberia, Mali, Mauritania, Niger, Nigeria, Rwanda, Sierra Leone, Somalia, Sudan and Zaire

While the commission lacks human and material resources, due in part to the failure of some OAU member states to pay their dues, its ineffectiveness has also been attributed to its mandate as outlined by the African Charter on Human and People's Rights

According to Article 58 of the charter, the commission's task is to draw the attention of the OAU Assembly of Heads of State and Governments, under which it falls, to urgent human rights situations The assembly can then ask it to study the latter, report its findings and come up with recommendations

"Legally, the commission appeared to have given up on Article 58 because it took its language to suggest that it was not able to do anything," comments Odinkaru

However, the 11-member commission itself appears to have admitted that its ineffectiveness has stemmed from a rigid interpretation of its mandate, rather than the mandate itself

"The intention behind Article 58 is to ensure

The African Commission on Human and People's Rights looks set to tackle human rights protection seriously. **L Muthoni Wanyeki** considers the commission's chances of becoming more effective...



Flashback ... OAU secretary-general Salim Ahmed Salim and former Tanzanian president Julius Nyerere at a meeting on Burundi. Efforts are now under way to strengthen a commission formed to draw the OAU's attention to human rights problems

PIC AP

there is warning about urgent human rights situations and possibly preventing them," said commission member Oji Umzurike

"The commission has not been satisfied with its operations under Article 58"

While "the commission has no enforcement or executive powers" and its role "is limited to making recommendations to the assembly", Umzurike notes, "international law, especially human rights law, is flexible

"The idea now is to see what we can practically do to ensure human rights protection But there have been great differences about interpretation and implementation," he admits "Only now are we arriving at consensus"

The commission now considers that it should investigate even if the OAU assembly does not ask it to do so It also feels it should not wait for a formal complaint from an aggrieved party before it takes action

This is relevant to cases like Liberia and Sierra Leone, from which no formal complaints have ever been received, whereas local and international NGOs and media have been reporting abuses in both countries for years

Similarly, there have been NGO and media reports on human rights abuses in Rwanda since 1990 — well before the 1994 genocide Early warning of this kind has also been available on Burundi

The proposals also seek to ensure that even if uncooperative governments drag their feet on giving the commission permission to investigate in their countries, this does not block its work

The range of options it is now considering in such cases include informal fact-finding visits by a single commissioner rather than formal fact-finding missions

Another is to hold public hearings in a neighbouring state or at the Gambia-based commission itself, to which it would invite the state concerned, survivors of rights abuses and other interested parties

The commission also aims to work more closely with NGOs

"The suggestions made are good suggestions," says Umzurike "The most concrete are the enumeration of options to take when states are being uncooperative

"The interaction with NGOs has developed into a working relationship which is useful They can feed us with information and counter-check state reports

Still, it is unlikely that the commission will immediately become more visible and effective

"This is a process and all these resolutions are preparatory," explains Odinkaru "Words are just words, and I'm under no illusion about the fact that the commission labours under enormous constraints." — *Sapa-IPS*

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SA to get public defender system

(252) CT 7/8/96

BARRY STREEK
POLITICAL WRITER

A PUBLIC defender system is to be launched in South Africa over the next 12 to 18 months, Justice Minister Mr Dullah Omar said yesterday

Legal representation in criminal cases could be provided more cheaply this way than by appointing lawyers in private practice to defend people who could not

afford a legal practitioner

Omar, who was replying to questions tabled in the National Assembly by Mr Farouk Cassim (IFP), also said the SA Law Commission was investigating all aspects of the law pertaining to dispute resolution through arbitration, with a project committee chaired by Mr Justice Jan Steyn

"I stressed the urgency of the project, as formalised methods of alternative dispute resolution

could undoubtedly relieve the burden on our court system," Omar said

Providing legal aid services to those who could not afford a lawyer was an essential service the state had to render in a democracy

However, the cost of legal aid services had to be assessed continually and cheaper methods considered

In the 1995/6 financial year,

the Legal Aid Board had paid R69,4 million to lawyers

The board had established that a public defender system would be substantially cheaper than the existing practice

Omar said agreements had been reached with universities and other institutions to establish 23 legal clinics at which candidate attorneys could provide services, with qualified attorneys as principals

The agony

of being on *Southern* 7/18/96 Death Row

Police brutality was very common and people were not compensated

By Claire Keeton
Feature Writer

ORDINARY people of Sharpeville suffered at the hands of the police and judicial system during the political uprisings in the Vaal Triangle in 1960, 1976 and 1984, the Truth Commission heard in Sebokeng

Six of the eight witnesses at the Human Rights Committee public hearing on Monday spoke of how they or their loved ones had been the victims of shootings, mostly by the police

The majority, who did not belong to any political organisation, received little or no compensation for injuries and losses that left them disabled and unable to find work

The final witness, Mr Duma Joshua Khumalo of the "Sharpeville Six", spoke of his agony on Death Row after being convicted of murdering Mr Khuzwayo Jacob Dlamini in 1984

For many years, Khumalo was on death row even though the state never proved he was personally involved in the death of Dlamini, the Lekoa deputy mayor. He was sentenced to death on the basis of "common purpose"

Khumalo asked the commission to assist him to clear his name of a murder he did not commit

"I ask myself how many people have died (on Death Row) without having committed any crime?"

Khumalo claimed while in prison, that he met the two men who killed Dlamini. He also asked the commission to organise a visit for his family and friends to the "Pot", the last stop of inmates waiting to be executed

Khumalo's story began on September 3 1984, when his neighbour was shot in the ankle after the police opened fire on a large group of residents. Khumalo said he helped his friend to get to safety the same day Dlamini was burnt to death

Sign a confession

Three months later, he was detained under Section 29 of the Internal Security Act. He was held at Vereeniging police station for questioning and forced to sign a confession

"It was my first time in (such a) situation. They said you are a snake and we will shoot you in the head. They said 'Sign here' and I signed."

Khumalo said the detainees were taken to Diepkloof Prison, where they were locked in separate cells. He wanted so desperately to get out of his cell that he ate broken glass.

"The windows of my cell were broken so I took the pieces and ate them. I

was excreting blood. One doctor said to me 'You were not born in prison and you will leave here'. I was consoled by that.

But Khumalo still struggled to cope with his confinement. "I told inmates I could not stand this life and asked them to help me go to hospital or escape. None of us were brave."

"We decided to break my bones and I put tissues in my mouth (to block the screaming). They took the water bucket and hit my feet many times to break them. But they did not succeed."

Khumalo said their situation improved when they started talking to other political detainees. They united in a hunger strike in protest against the conditions of their detention.

On May 23 1985 the police told Khumalo he was being released from Section 29 and they arrested him for murder. "They took me to Krugersdorp where I met the others from Sharpeville (who later became known as the Sharpeville Six). It was wonderful to see them."

Khumalo said they were taken to court where he hoped to see his parents and get bail. "They had not been told we were in court and for the first time I cried like a baby."

He said it was easy for him to tell the truth since he had not taken part in the murder. "I can't even make a petrol bomb."

The trial started in September and, on December 13, the "Sharpeville Six" were sentenced to death.

Khumalo said his first Christmas on death row was particularly painful since "the Boers enjoyed themselves in a place where they were killing people."

Taken to be killed

He said every prisoner's name and details were kept on a card on their door. And when the warders came to get that card, you knew your days were numbered. "On Death Row I tried to make friends but any day the person would be taken to be killed."

Khumalo said death row inmates lived off the last concessions granted to prisoners about to be executed. "We only survived by their food and extras. We sang a song *Your death makes me survive*."

He said he was abused by a doctor when he asked for treatment for skin problems. "The doctor said 'What is



Duma Khumalo ... spent many years on death row even though the state never proved he was personally involved in a murder. PIC LEN KUMALO

the use of treating you when you have come to die?' I stopped washing for a long time."

In 1986 an appeal to free the "Sharpeville Six" failed and they were shattered. Finally, in 1988, their death sentence was commuted to prison terms by the Bloemfontein Appeal Court.

"I was not assaulted in prison but I was verbally tortured," Khumalo said. On July 10 1991 he was granted parole after a public petition for a review of their case and new amnesty provisions for political prisoners.

Truth Commission chairman Archbishop Desmond Tutu said Khumalo gave a shattering account of his experience.

"The sentencing to death of the Sharpeville Six was a miscarriage of justice. The judicial system often did not care, where it should have been the last bastion of the few rights (that people had)," Tutu said.

"Even people who were on the bench ought to come and tell their story their part in helping to perpetuate an unjust system. It would not be held against them."

Tutu said he had been struck by the awfulness of what "so-called ordinary people" had endured in South Africa

Fake degrees scam to be probed

By Victor Mccamere

DIRECTOR-GENERAL of the Department of Education Prof Chabani Manganyi has appointed Dr Thron van Rensburg to investigate the alleged fraudulent issuing of degrees at the University of Zululand.

Van Rensburg, deputy director-general of education, training, programmes and higher education, was to have met with the university's top management yesterday.

"The allegations affect the credibility and integrity of all higher education institutions in South Africa," Manganyi said.

Sowetan 7/8/96

He said Van Rensburg's appointment was also approved by the Minister of Education Prof Sibusiso Bengu. He said that the listing of a mutually agreed procedure for investigating the allegations surrounding the allegations.

Top civil servants have been cited as recipients of the fake degrees from the institution, a revelation that has shocked South Africa and has prompted the university's students representative council to call for an independent commission of inquiry.

The move has received the backing of the South African Students Congress which embarks on a nationwide "Day of Action" today.

Mandela given 10 judges' names

THE names of 10 prospective judges in the Appeal, Supreme and Land Claims courts have been recommended to President Nelson Mandela by the Judicial Services Commission.

Judges Chris Plewman and Ralph Zulman had been proposed for the Appellate Division, commission chairman Chief Justice Michael Corbett said in a statement yesterday.

A number of advocates had been recommended for vacancies in the Supreme Court. They are S Ngcobo for the Cape of Good Hope division, PM Meskin, SC, and V Niles-Duner, SC, for Natal, M Madlanga for Transkei, GA Borchers, SC, P Boruchowitz, SC, and Kathy Satchwell for the Transvaal.

Although two candidates were interviewed for the Ciskei, the commission had decided not to make a recommendation for this division. Ms S Mchaba had been proposed for the Land Claims Court.

A commission spokeswoman said the Ciskei post would be re-advertised and interviews would be held at the commission's meeting in December.

She said the commission had also given the president its recommendations for the Labour Court and the Labour Appeal Court.

Representatives of the National Economic Development and Labour Council, who sat in on last week's interviews, would make a separate set of proposals to Mandela. — *Sapa*

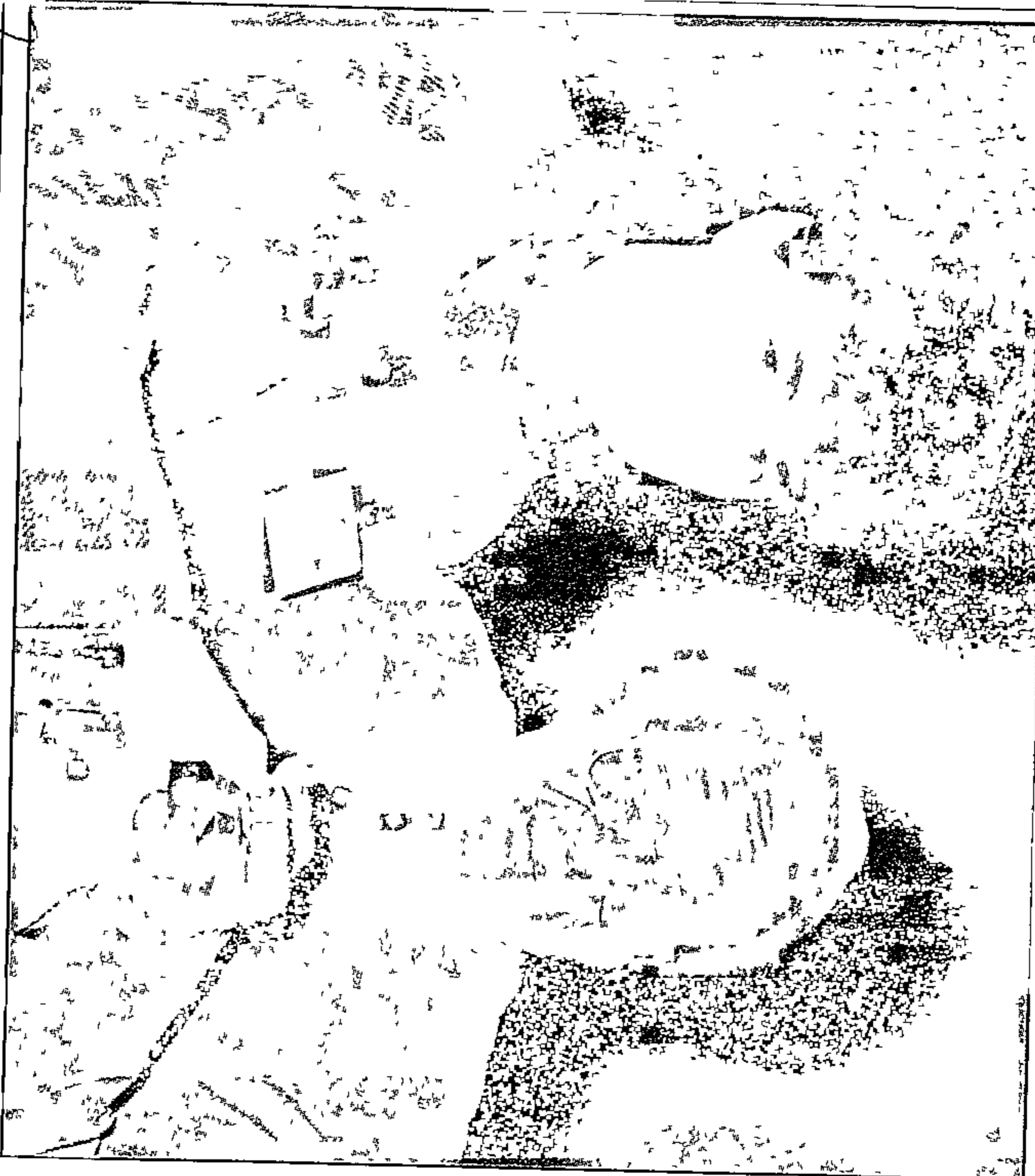
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Safeguarding the truth

Woman inspector in charge of security at TPRC hearings

AR48/8/96 (252)



JOHN YELD
on the Truth Commission

ON the eve of National Women's Day tomorrow gender issues featured strongly at the Truth Commission's hearings at the University of the Western Cape this week, and - appropriately - the safety of both witnesses and commissioners was in the hands of a woman

It was the second time that Jacolene Snyman, a 25-year-old who holds the rank of inspector in the police, had

been in charge of security at a commission hearing

She was also responsible during the human rights violations committee hearing in Athlone earlier this year

Born in Montagu, Inspector Snyman completed the standard six-month police training course before being sent to Bredasdorp, where she was stationed for three years

In 1993, she was transferred to the police National Protection Service and is presently commander of the security

unit responsible for the National Assembly buildings at parliament and for the Truth Commission's offices in Adderley Street

Most of her staff - in line with standard security principles, she won't say how many there are - are men

Do they give her any problems because she's a woman?

"They're very respectful and 100 percent co-operative I don't think they have any problems," she replied

And what about the public?

"They're quite helpful," she said
"We have had a bit of a problem here (at UWC) though with the students, who didn't understand that they had to have tickets to come in"

Inspector Snyman was par-

ticularly busy this week because there was only one other woman on the security team, so she had to help search women visitors' bags before they were allowed into the Great Hall where the hearing was held But she was able to hear some of the testimony

Among those she listened to was journalist and former activist Zubeida Jaffer

Was she upset by the fact that policemen were so often named as perpetrators of human rights abuses by Ms Jaffer and others?

"I don't feel good about that - I feel a bit ashamed," she said "But it's definitely not like that in the new police service It doesn't happen like that anymore"

She gets on particularly well with her unofficial



"boss", Truth Commission chairperson Desmond Tutu

"He's nice - vreeslik (terr-ibly) nice - and I work very well with him And (deputy chairperson) Dr Boraine is just as pleasant"

She admits with a blush that there is someone special in her life

Not surprisingly, he's also a policeman, but there are no immediate plans

First, there's this rather important matter of security to attend to

IN SAFE HANDS: Truth Commission chairperson Desmond Tutu shares a lighter moment during a break in proceedings with Inspector Jacolene Snyman, who headed the SA Police Services' unit which provided security at the commission's hearings at the University of the Western Cape this week

Picture DOUG PITHEY, The Argus

Woman tells of sister's dying plea for her child

(252) ARG 8/8/96

JOHN YELD
on the Truth Commission

THE last words of a dying woman - "Look after my child" - were recalled by her sister during moving testimony at the Truth Commission's special human rights violations hearing to honour the role of women in the struggle for freedom in South Africa

Choking back tears, Agnes Gounden told the hearing at the University of the Western Cape yesterday that her sister, 25-year-old Avril de Bruyn, had been shot dead by a policeman on June 17 1980 during a violent stayaway to commemorate the 1976 student uprisings

They had been on their way to see a cousin living in Bishop Lavis when her sister was hit

"She was a few steps behind me and she said, 'They shot me' and I thought, that's not true. These things happen in the movies, they don't happen to us"

Avril, who had been widowed when she was eight months pregnant, had a child aged two-and-a-half at the time "As I got to her she fell and the last thing she said to me was 'Look after my child'.

"I couldn't believe she was going to die or anything. You try so hard to forget these things."

Ms Gounden said she and her husband had subsequently adopted their nephew, who was now an 18-year-old second-year medical student at the University of Cape Town

"I think she (Avril) would be proud of what we have done"

Their adopted son had "difficulty" with part of the family's history and had not wanted to attend yesterday's Truth Commission hearing

Mrs Gounden said an inquest had found it was "just unfortunate" her sister had "come in the line of fire". The policeman who had fired the shot - "Captain Sterrenberg, let me get his name right" - had been found to be "just obeying orders".

A Supreme Court case against the police had been abandoned

●An inquest in Bishop Lavis Magistrate's Court in April 1981 found that SAP sergeant John Sterrenberg had fired the shot which penetrated Ms De Bruyn's heart. There had been no criminal negligence on his part, the magistrate ruled

Gangsters disrupt city's law courts

Own Correspondent

252

PORT ELIZABETH — Gang warfare disrupted the Port Elizabeth law court yesterday when a man was stabbed by rivals in front of guards.

Gangs also went on the rampage in the city's courts last week.

Panic swept through the New Law Courts complex after yesterday's stabbing, with court staff taking refuge behind locked doors and members of the public running along corridors, screaming for the police. Unarmed gangsters fled to offices and courtrooms where cases were being heard.

Boomshakas gang members confronted rivals outside Court 32, swearing and gesticulating at each other.

Five of the rival gangsters ran to the security desk at the front door and reclaimed knives they had handed in when they entered. They told the guards they were leaving the building. Instead, they went back into the courthouse, evading the metal detector.

A young man who identified himself as "Fritos" was stabbed three times while a security guard and a reporter watched helplessly.

At the Supreme Court building on Friday several people were wounded as gangsters attacked each other with knives, sticks and pickaxe handles.

Justice officials have pledged to tighten security.

DD 8/8/96

Commission hears of attacks at night

008/8/96 (252)

VEREENIGING — A mother yesterday told the truth commission Kwa-Madala hostel residents had stabbed her two-year-old daughter and killed her husband in an armed attack on Boipatong residents on June 17 1992

Jane Mbongo said she heard a noise at about midnight outside her window and voices shouting "Open up, you dogs!" The house was stoned, the door burst open and the attackers stormed in. Mbongo said they killed her husband and she and her two-year-old daughter, Victoria, hid under the bed. The attackers repeatedly stabbed the bed with spears screaming "Come out you dogs, come out!"

She was holding Victoria in her arms when they stabbed her child with a spear. "My child was crying, the spear went through her"

Mbongo said she was also stabbed, and her fingers were chopped off. She and her child were hospitalised and were discharged after the mass funeral for the 42 Boipatong massacre victims.

Truth commission deputy chairman Alex Boraine dubbed June 17 one of the darkest days in South Africa's history.

Dinah Manyika wept as she described how her family was woken by the sound of shattering glass. "We were sleeping and heard the attackers speaking Zulu. I heard them shouting 'wake up, you dogs' and the door burst

open." When she was spotted by one of the men he shouted. "Here's a bitch, kill it." She escaped to neighbours and when she returned home 30 minutes later found her two brothers cowering under their beds.

A neighbour later pointed out the body of her 47-year-old mother who had been hacked to death. Her father died in hospital from his injuries.

Paulina Mbatha, who was stabbed several times as she tried to hide under her bed, said she was a quadriplegic as a result of her injuries.

When the attackers entered their home her husband Johannes hid behind the wardrobe and she tried to crawl under the bed. She was stabbed repeatedly. Her husband said policemen were present during the attack.

"I thought I was dreaming. I could not believe the police were there in uniforms." Asked whether he was absolutely certain police were present, he said "I cannot tell a lie, I even saw their cars." He said he followed the attackers, who "got into the Hippos". The same policemen arrived the following day to take statements, he claimed.

"I was quite scared to tell them they were the people who were outside last night," Mbatha said.

Several people have been convicted for the Boipatong massacre. Some are on bail pending an appeal. — Sapa

Mother tells of jail experience

CAPE TOWN — Former MK member Shirley Gunn's harrowing experiences at the hands of the security police in detention had made her reintegration into society extremely difficult, she told the truth commission yesterday.

Gunn told the commission's human rights violations hearings at the University of the Western Cape she had been falsely accused by then law and order minister Adriaan Vlok of being involved in the Khotso House bombing in August 1988, and was arrested together with her 16-month old son, Haroon, at Victoria West in June 1990.

Close to tears, Gunn described her anguish as Haroon was forcibly removed from her and taken to a place of safety. Held in freezing conditions in an open cell at Wynberg police station, she was subjected to intense interrogation on a daily basis.

Soon after she was detained two social workers took Haroon away.

Her interrogators tormented her, saying she was "hopeless, useless, not fit to be a mother".

She was told Haroon was somewhere in Wynberg and if she listened hard enough at night she would be able to hear him crying. The interrogators brought her a recording of his voice calling "Mama, Mama".

Eight days later he was returned to her. "His eyes were sunken into his head. He had lost a lot of weight and looked depressed."

She and Haroon were eventually released after 64 days. She was never charged with any offence in relation to the Khotso House explosion. As a direct result of this experience she and Haroon both suffered from post-traumatic stress disorder. — Sapa

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Law body looks at bringing reason to contracts

Unreasonable expectations embodied in binding and legal contracts are under investigation by the South African Law Commission

The commission said in Pretoria yesterday that a discussion paper on "unconscionable stipulations" would form the basis of the investigation

"Contracts are daily concluded in the expectation that they will satisfy the needs and aspirations of the contracting parties (and) it may only subsequently be realised that, in practical application, the contract or some of its terms are unjust or

unconscionable," it said.

Questions being considered were whether the courts should be able to grant relief in those circumstances by either setting aside the contract or modifying its terms

However, there was concern that any tampering "with the binding force or sanctity of contracts will destroy legal and commercial certainty because contracting parties will not know whether or not their agreements will be modified to the detriment of one or the other" - Pretoria Bureau

Nov 8/8/96 (252)

POLICE PLAYED TAPE OF BABY'S CRIES

(252)

Gunn reveals trauma of having son taken away

CT 8/8/96

ALTHOUGH under extreme stress at being separated from her 16-month-old son while she was imprisoned and interrogated by police, activist Ms Shirley Gunn still managed to intimidate the captors who caused her torment. **EUNICE RIDER** reports

ACTIVIST Shirley Gunn, who was falsely accused of bombing Khotso House in 1988, told the TRC of her arrest along with her 16-month-old son and her subsequent torture

Gunn, a social worker and former ANC cadre, yesterday told of her harrowing experiences at the hands of security police following her arrest in June 1990

She and her son Haroon were detained in a cell which opened on to a cement yard in the middle of winter for several months, while police interrogated her under Section 29 of the Internal Security Act

She said at one point Haroon was taken from her by social workers with a court order

Weeping quietly, she said the child had screamed and cried, his arms stretched out to her as the social workers carried him off, despite pleas from her that he was being breast-fed

"I was numb I felt I was going to snap," she wept

She said the police had exploited the fact that she was a woman and a mother by removing her child

"The interrogation continued and they refused requests to take my milk to Haroon

"They told me Haroon was somewhere in Wynberg and that if I listened hard enough at night I would be able to hear him crying

"They brought me a recording of his distressed voice calling 'Mama, Mama'

Gunn said she had threatened to go on hunger strike unless Haroon was returned to her. He was returned eight days later by court order

"His eyes were sunken into his head. He had not been eating — he had visibly lost a lot of weight and



SMILING AGAIN: Ms Shirley Gunn

looked depressed. He clung to me and had to re-establish trust in me, but a short while later he was walking around quite happily. It did not matter that we were in a scummy cell. He was back with me, and he was home"

She said the following day they were taken to the women's prison in Caledon, where Haroon got "desperately sick and was going down fast" with chronic diarrhoea and vomiting

With great difficulty she managed to see a district surgeon, a Dr Basson, who told her there was "nothing wrong" with Haroon, that he "just has chronic diarrhoea and vomiting"

She felt powerless and nursed Haroon as well as she could under the circumstances

"It took a long time for him to pull through. He had to learn to walk all over again," she said

She had since had a daughter she named Haanee, after Chris Hani, but said that she and Haroon suffered from post traumatic stress syndrome and could not stand to be apart

Gunn said most women had a tussle

between their professional and mothering roles, but hers was exaggerated as a result of her experiences, and she felt she did not fit into "ordinary structuring"

She had agonised over not really being able to participate in South Africa's transformation and said that allowances had to be made for affirmative action and for the re-integration of cadres like herself "so that we can be productive and part of what's happening"

She said money simply had to be made available for this purpose and was given a standing ovation by the audience

Gunn asked the TRC to facilitate a request from Haroon, now seven, to meet TRC chairperson Archbishop Desmond Tutu and President Nelson Mandela

In closing her evidence she asked that perpetrators of human rights violations not be allowed to get away with their crimes against humanity, and told a story of how she had been able to put her femaleness to good use in intimidating "those big white policemen"

She said in the days when her son was removed from her she would tell her interrogators to leave the room so that she could express her breast milk

She asked for warm water to assist her with the painful process and used to put a few drops of milk into the pans of water brought her. "They were horrified to see the pans and pans of (what they believed was) milk being brought out of the interrogation room"

"They were hopelessly intimidated — sometimes we women must take advantage of these things," she said, laughing

Gunn has a civil claim for 1 million against Mr Adriaan Vlok and the Ministry of Law and Order

● The police have approached the TRC to confess that they were in fact responsible for the bombing of Khotso House

EX-Cape Times journalist tortured, poisoned

EUNICE RIDER

FORMER Cape Times journalist Zubeda Jaffer told the TRC yesterday how she had been captured, tortured and drugged after they arrested her for writing an article on police brutality in June 1980.

After arriving home from a late night shift at work, security policeman Spyker van Wyk arrested her at home.

She was driven to various places, including Port Elizabeth police headquarters, by the

police, where they questioned her for three days without allowing her any sleep, threatened to throw her out of a window "to where other detainees have died" and poisoned her food.

Jaffer said she was brought her first meal after two days and shortly after eating it, during incessant interrogations, a Captain Du Plessis said it did not matter that she was not answering their questions because she was going to die anyway as her heart was going to "give in".

Du Plessis also beat her — throwing her against a wall during interrogations — and at one stage told a policeman to rape her. The policeman was coming towards her with two others and Du Plessis watching, but Du Plessis then called him off saying her heart was going to give in.

That evening she noticed that her veins were dilated and "looked like dark snakes."



(262) 278 196

on my hands". "I felt severe pain in my chest and I was sweating. I felt like my insides were going to come out".

After telling her interrogators to take her to a bathroom because she was getting sick, she overheard them saying "It's starting".

"I was violently ill and realised I had been drugged," she said. A doctor whom she saw later believed a drug was placed in the curry lunch that afternoon.

In the weeks following her acquittal the following year on three charges of possessing banned books, the security police followed her constantly and confiscated her passport without explanation, banning her from travel for 10 years.

She said she could not take the pressure and resigned from the Cape Times.

Jaffer then became a full-time activist.

CT 8/8/96 (252)

Attorneys, Omar talk pay

THE Association of State Attorneys and Justice Minister Mr Dullah Omar yesterday agreed to establish a joint committee on attorneys' salaries, the ASA said.

The parties agreed state attorneys would receive overtime pay, and problems relating to offices in the former homelands would receive attention.

Application against TRC dismissed

ARLT 9/8/96

(252)

DENNIS CALLEJAS
SPECIAL REPORTER

The supreme court has dismissed an application for the Truth and Reconciliation Commission to be found in contempt of court. The court found that the police had disobeyed a court order.

The application was brought by Brigadier Jan Abraham Pieterz and former general Jacobus Janse van Rensburg. They alleged that the commission did not comply with a court order. Justice Edwin Cameron said that the ex-policemen should have access to documents which could

have incriminated them at a commission hearing, and adequate notice of the hearing.

The dispute arose in April when Joyce Mthimkulu, the mother of slain student activist Siphwe Mthimkulu, was to give evidence before the commission concerning her son's disappearance and death. She gave her evidence at the commission's successful Full Bench appeal.

Counsel for the ex-policemen, Louis Visser SC, said Chief Justice had been petitioned for leave to appeal against the Full Bench judgment. He said the commission had wilfully disobeyed Judge King's order.

Although their application

originally asked for the commission to be found in contempt of court and for it to be fined, and for chairman Archbishop Desmond Tutu jailed, they changed this and asked the court to find the commission had not complied with a court order.

Mr Justice J G Foxcroft said yesterday that there had been "absolutely no disobedience or disregard of the court order (which could be) a basis for contempt of court."

Judge Foxcroft said the two ex-policemen's persistence in involving Archbishop Tutu in the application "was baseless and reckless". The ex-policemen were ordered to pay costs.

French invite human rights ideas from SA

(252)
Staff Reporter

ARG 9/18/96

SOUTH African individuals and organisations have been invited to submit workable projects to combat gross human rights violations and degrading treatments, in detention, for an international French competition

The French Republic Award of Human Rights is aimed at finding solutions to some of the world's problems and instilling a culture of human rights

French Embassy spokesman Yves Lo-Pinto said every year the French prime minister awarded five grants amounting to R500 000 for distinguished field actions, specific studies and special projects dealing with the promotion and protection of human rights

"The topics for this year's award are 'Citizenship and the implementation of human rights', and 'What can be done in the fight against inhuman or degrading treatments in detention' The competition is open to people from all parts of the world, but given the current situation in South Africa, we feel confident a host of ideas will emerge from here"

Mr Lo-Pinto said the proposals submitted must include a letter of application, a detailed presentation file about the action or project, and the name, address, position and bank data of the project leader

The project must still be in the planning stage Applications must be sent before September 6 to the French Embassy, 807 George Avenue, Arcadia, Pretoria, or faxed to (012) 433769

Commission hears of slaughter after Hani assassination

By DAISY JONES

In April 18 1993, the night before former ANC leader Chris Han's funeral, Anna Kheswa was watching the vigil on television when her children and three of her friends were slaughtered by a group of armed men who burst into her home and demanded money.

Kheswa, who is not related to the "Vaal Monster" Khetsi Kheswa, was shot twice in the leg and left for dead. She and other survivors were killed in random attacks in the Vaal Triangle told the Truth and Reconciliation Commission's hearing in Sebokeng of their grief yesterday.

Maphaka Mosisa, the father of the boy Mosisa, said the police had not allowed him to touch his dead son or remove his shoes, as is their custom. Onboy, who was one of Kheswa's friends, killed in the attack, had not been a member of any political organisation, Mosisa said.

Dolly Magoda's father died from grief exactly five months after his daughter was killed the same night. She was shot outside her home Dolly's mother said of her deceased husband "He loved his children a lot, but among them all, Dolly was his favourite."

Molebatsi Honoko, Dolly's boyfriend, died next to her. The couple were forced to lie down and were shot in the head. Honoko's sister, Martha, said he was shot in the head and the chest. He was an ANC member. Abel Phelg told the commis-

sion that his son, Molele was the victim of a drive-by shooting the previous year. On New Year's Eve 1992, Molele was shot in the presence of three friends. Phelg said the boys pointed out the car to him at the Sebokeng police station the following day, when they were making statements. Molele was a PAC member, who had been at school in Tanzania, and suffered police harassment and torture on his return to South Africa, Phelg said.

Phelg was surprised when the postmortem report revealed his son had died of two bullet wounds, since he had seen only one wound in the left buttock. Agnes Nhlapho said she lost her son, Unkhonto weSizwe cadre Mzwakhe Moses Nhlapho, on April 26 1992, when the "Vaal Monster" and his gang, assisted by the police, attacked her home in the morning. Her neighbour's 4-year-old child was killed by a stray bullet during the attack.

Dorothy Hlatshwayo lost a family member on July 12 1993 - the day 14 people were killed and 16 injured - as a result of a drive-by shooting in Sebokeng.

Truth witness's disclosures draw gunfire

By DAISY JONES

The home of a witness who testified at Tuesday's Truth and Reconciliation Commission hearing in Sebokeng was shot at on Wednesday night after her disclosures, commissioners told the media yesterday.

The woman, whose identity has not been disclosed, had been the victim of intimidation and the commissioner's investigative unit would consider putting her on its witness protection programme, commissioner Fazel Randerera said.

He said the shooting had been reported and a bullet casing handed in to the commission yesterday. Randerera added that other witnesses and visitors to the hearings had reported cases of intimidation.

In one case, a woman who was to testify had spotted her alleged persecutor in the hall. During the lunchtime media conference, a reporter and photographer reported they had seen five white men in the parking area chanting "Viva AWB" and "Viva Eugene TerreBlanche" as they moved a package from one car into the boot of another.

The reporter said "the men might have been linked to the security company present at the hearings, as one of the cars was similar to those in the motorcade which visited Boipatong during the lunch hour on Wednesday. Randerera said the commission had not heard of the matter before, but considered it very serious and would investigate further.

Star 9/8/96 (252)

Prosecutors suspend protest

(252) CT 9/8/96

JOHANNESBURG: Public prosecutors' pay talks with Justice Minister Dullah Omar had failed, but their work-to-rule protest action would be suspended immediately, Prosecutors' Association of South Africa (Pasa) chairman Mr Blackie Swart said yesterday.

This was a gesture of goodwill to avoid further chaos in the courts, Swart said in a statement.

While Pasa had succeeded in obtaining some interim relief for prosecutors in overtime and "personal profile" adjustments, the drawn-out negotiations with Omar on a general salary increase had failed.

"Prosecutors will, for the foreseeable future at least, still have to work for salaries which are totally inadequate and in many cases ridiculously low.

"The real losers are the proper administration of justice and the community.

"The steady flow of experienced prosecutors out of the Department of Justice will continue and the already overburdened prosecutors who remain will have to carry the extra load.

"The seriousness of the situation and the anger and frustration of prosecutors are apparently not appreciated by the department.

Swart said Pasa called on all prosecutors to suspend the work-to-rule action immediately.

"We do this as a gesture of goodwill and in order not to cause further chaos in our courts. We will reconsider our position on August 30. We reserve the right to take any action we deem fit, should it become necessary." — Sapa

Mother tells of raid by masked killers (252)

ET 9/8/96

VEREENIGING The Truth and Reconciliation Commission yesterday heard chilling accounts of a killing spree in the Vaal Triangle on the eve of slain SA Communist Party leader Mr Chris Hani's funeral.

The attacks left at least 19 people dead on April 18, 1993.

A distraught Ms Anna Kheswa told the commission in Sebokeng that gunmen disguised with balaclavas forced their way into her home and shot dead her two sons, aged six and nine, in their beds.

She is not related to earlier witness Mrs Emma Kheswa, mother of deceased IFP member Mr Victor Kheswa, known as "the Vaal Monster".

Anna Kheswa told the commission three friends visiting her were also shot dead when her sons were killed.

She too was shot, and was left for dead. The attackers ransacked her home and stole her belongings, including her wristwatch, as she lay bleeding on the ground.

Her children were asleep at the time of the attack while she and her friends were watching coverage of Hani's vigil on television.

Asked whether she believed the attack was criminally motivated, Kheswa said the gunmen saw a photograph of President Nelson Mandela and destroyed it. "They kicked it and tore it to pieces."

She said it was clear they were very angry about Mandela's portrait and the fact that township residents were watching Hani's vigil on television.

Kheswa said she still lived in the same house and relived the attack every day because her home was still riddled with bullet holes.

She had been unable to identify her attackers, although police had shown her a photograph of gangster and IFP member Mr Hunter Ndlovu, and said he had been arrested in connection with the attack.

Unlike her neighbours, she had been too scared to accompany police to the IFP-aligned KwaMadala hostel, where many victims of the attacks had recovered their stolen possessions.

Kheswa, who broke down several times during her testimony, found her account interrupted by the piercing wails of a child in the audience.

Members of the audience burst into laughter disrupting the proceedings for several minutes, and seemed oblivious to the pain of a mother who had lost her own children.

The commotion moved commissioner Mr Fazel Randera to sharply rebuke the audience, saying it was a tragedy that they felt able to laugh in such a situation. — Sapa



TRC 'not a toothless dog'

(252)

same as
9/8/96

By Mzimasi Ngudle

TRUTH Commissioner Dr Fazel Randeru yesterday warned assailants responsible for Wednesday's attack on the house of a witness who appeared before the Truth and Reconciliation Commission in Sebokeng on the Vaal Triangle that the commission would act harshly against intimidation.

"The TRC is not a toothless dog. We have many powers and where intimidation takes place we will take action," he said.

Urging intimidators to desist from endangering the lives of witnesses, Randeru said many witnesses had complained about intimidation since the hearings started on Monday.

Shots were fired at the house of one witness on Wednesday.

As the commission wrapped up its hearings yesterday, the notorious gang led by the late Victor "Khetisi" Kheswa, which was linked to the Sebokeng night vigil massacre, was again accused of gross human rights abuses.

Meanwhile, for the first time since the TRC's first sitting in Eastern Cape early this year, whites are expected to pack the

University of South Africa's auditorium when the commission sits in Pretoria next week.

Unlike previous hearings, where there were either no whites or only a sprinkling of them in predominantly black audiences, the Pretoria hearings, which will focus on the Silverton siege, Church Street bombings and other human rights violations, are expected to attract wider interest.

Whites killed

TRC spokesman Mr Sello Rabothata said some whites were killed or injured in the area during attacks by liberation movements which regarded Pretoria as a legitimate target because of its administrative capital status.

Two white women died in the Silverton bank siege while 19 people, including white SA Defence Force soldiers, were killed in the Church Street bombings.

Rabothata said the hearings would also cover the attempted assassination of top African National Congress official Mr Godfrey Motsepe, the killing of the "Mamelodi Nine" in KwaNdebele, petrol bombings of the houses of activists and their disappearance.

Reinstate death for rape and murder – De Klerk

(252) ARG 10/8/96

WOMEN's rights alone will not solve problems such as unemployment, lack of housing and poverty, says National Party leader FW de Klerk.

Addressing a Women's Day rally in Mitchell's Plain yesterday, Mr De Klerk said there was still much discrimination against women – and the NP supported all measures to eradicate this

More needed to be done to combat violence, especially violence against

women

The incidence of rape in the Western Cape was amongst the highest in the country and perpetrators had to be dealt with harshly

An effective criminal justice system was needed, while the death penalty had to be reinstated for crimes such as rape and murder, he said, to tumultuous applause from the mainly female audience – Sapa

TRC triumphs, but enormous challenges await

JOHN YELD
on the Truth Commission

THAT there are still strong differences of opinion about the Truth and Reconciliation Commission (TRC) was evident from posters on the walls of the students' union at the University of the Western Cape this week.

Some posters contained messages from the commission itself, skillfully packaged by a professional advertising agency "The Truth Hurts, but Silence Kills"

Others depicted the blunt argument of Azasco (Azanian Students Congress), cheaply but effectively printed on standard copier paper and using the emotive language of the struggle "If they are not punished after confessing to the crimes, the killers will make fun of us Down, TRC, down"

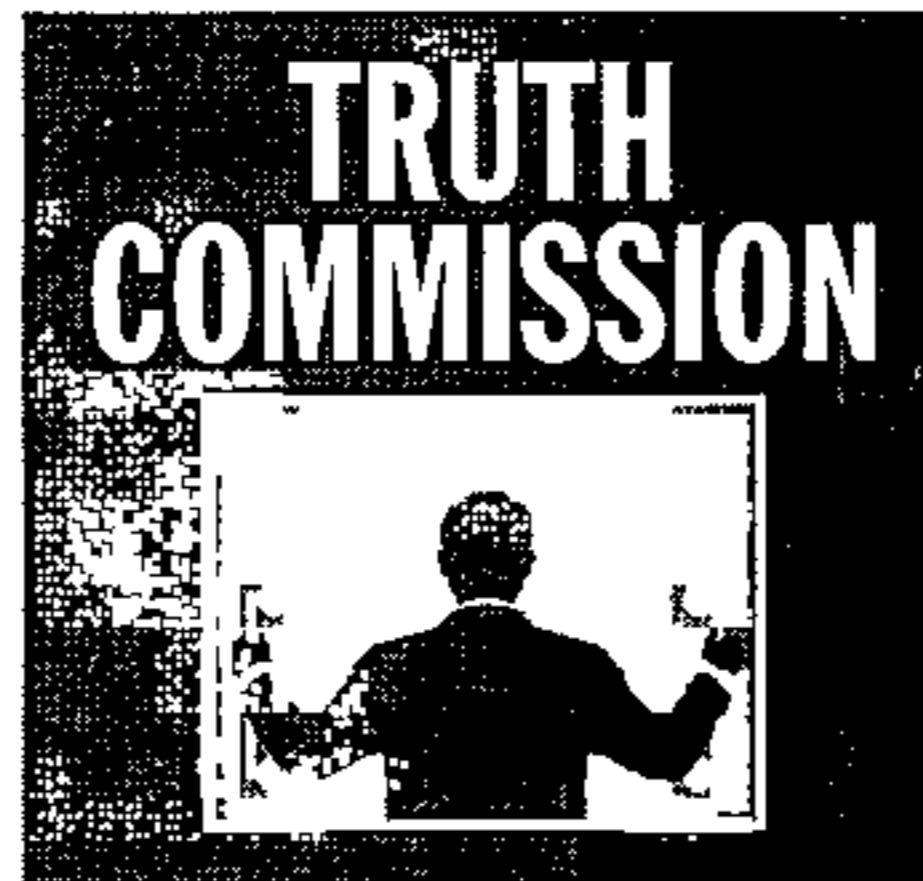
The debate about the nature and structure of the commission is far from over, despite the failure of the major challenges to it in recent weeks in the Constitutional Court, where the arguments by the Azanian People's Organisation (Azapo) and the Biko, Mxenge and Ribiero families were rejected, and in the Supreme Court, where the commission weathered a challenge by former security force officers.

Clearly, there are still those who feel strongly that retributive justice for the perpetrators of human rights violations between 1960 and 1993 is both appropriate and fair, and that the commission's statutory mandate to achieve reconciliation through truth is unjust, divisive and inappropriate for the South African experience.

But at the hearings of the commission's human rights violations committee in UWC's Great Hall this week - the hearings which had prompted the rash of posters - there was a palpable sense that the Truth Commission process had advanced into a new dimension.

The series of hearings since April has produced many terrible truths, and although that aspect of its work is nowhere near complete, the commission appears to be increasingly preoccupied with how it is going to achieve the second half of its mandate - rehabilitation and reparation - and what sort of recommendations to make to parliament that will promote effective reconciliation and ensure that human rights abuses never again occur on the scale of the old South Africa.

■ Reconciliation through truth or retributive justice? Debate about the nature and structure of the TRC is far from over as it moves onto its next challenge - rehabilitation and reparation.



The urgent need for rehabilitation of those physically and psychologically damaged by the struggle for democracy was powerfully articulated at the UWC hearings by social worker and one-time trade unionist Shirley Gunn, who described her torture at the hands of security police while being detained for 64 days in 1990.

Ms Gunn testified that as a result of her detention and the enforced separation from her 16-month-old son Haroon for part of that time, they both suffered from post traumatic stress disorder.

This made her reintegration into society "extremely difficult", and she was unable to hold a full-time job because of her need to be with her two children.

"I want to work and I want to be productive, but I don't fit in so easily. Allowances must be made for people like me so that I can fit in - I want that very, very deeply."

Ms Gunn said she had been feeling "extremely marginalised" and that testifying at the hearing had reduced that sensation. "I'm very grateful for that, but that's only the beginning," she continued.

There had to be a way of helping reintegrate people like herself into society.

"There must be a fund for these people. We must have the money to deal with victims and that money must be found - we can't say we don't have the money," she said to loud applause.

Ms Gunn's sentiments were echoed by fel-

low former activist and trade unionist Zubeida Jaffer, who told the commission she had been diagnosed as suffering from post traumatic stress disorder after collapsing in 1988.

Ms Jaffer said her experiences while in the hands of the security police and during constant harassment while trying to work as an activist had affected her and her family "very badly".

"I've struggled for many years to overcome it, and I pray every year for it to go away," she testified.

"It's like your whole body has been in terrible shock. I know it happens to others - I look around and I see it in their faces. I'm very fortunate to have support from my family and the community, and it really pains me that there are people out there without support. How can they get through it when I can't (even) with all this support?"

Ms Jaffer argued for a special fund and a specialised unit to help rehabilitate victims of human rights abuses.

"We have to make sure these people get help and are not just left to themselves," she said.

At the close, Truth Commissioner Glenda Wildschut described the three-day hearings "as an important landmark" in the life and work of the commission, and said "very, very important features" had emerged for them to consider.

She told the audience "We know human rights abuses have occurred in many ways and on many levels. The challenge that lies before us is that we need people like yourselves to become actively involved in the reconciliation work of the commission."

"Because that's our double mandate to acknowledge and uncover the truth, and also to be able to work towards reconciliation. Knowledge is important, but acknowledgement is equally important."

Ms Wildschut said the evidence before the commission - of multiple layers of victimisation and human rights abuses - posed significant challenges to institutions ranging from universities, technikons and schools, to nursery schools and creches.

"We have to begin to ensure society will not tolerate abuses such as we have heard today. We need to train people so they will be fortified to challenge human rights abuses, so there will no longer be collusion of any kind with injustice."

ART 10/8/96

(252)

Judge grilled on links with Broederbond

DENNIS CAVERNELIS
Supreme Court Reporter

(252) ARG 1/8/96
A CAPE Supreme Court judge has been grilled about his former membership of the secret Afrikaner Broederbond.

Mr Justice Fritz Brand, who had been a member of the Broederbond for 13 years, has been nominated for appointment to the Appeal Court in Bloemfontein.

He came under fire from the Judicial Services Commission in Cape Town yesterday during his interview for appointment to the Appeal Court.

The commission is interviewing candidates for appointments to various courts. Its members include Chief Justice Michael Corbett, Constitutional Court Judge President Arthur Chaskalson, and General Council of the Bar chairman Malcom Wallis, SC.

Judge Brand, 47, became a senior counsel in 1989 and was appointed to the Cape bench in 1992.

He was grilled by commission member and civil rights lawyer George Bizos, SC.

On his application form Judge Brand stated he was not a member of any political organisation, and where the form asked if he was a member of any secret organisation, he stated he had belonged to the Broederbond from 1978 to 1991.

He resigned from the organisation when he was appointed to the bench, as he did not think it was appropriate to belong to the organisation and be a judge.

He said he did not consider the Broederbond a party political organisation, because its members belonged to different political parties, and voted for different parties.

Mr Bizos said he found it difficult to accept the suggestion that the Broederbond was "merely a cultural organisation."

Judge Brand said it was "more than a cultural organisation, we did discuss matters of policy. Personally I never had any influence over the government."

Jo'burg human rights book aims to spell it out

Ingrid Salgado

BD 1/8/96 (252)

THE greater Johannesburg metropolitan council and the Centre for Applied Legal Studies launched an educational book on human rights in local government yesterday in an effort to educate communities about their constitutional rights and obligations.

A Practical Guide to Human Rights in Local Government is believed to be the first book on human rights to be produced by a local authority anywhere in the world.

The book's editor and the centre's acting deputy director Shadrack Gutto said the guide drew on the interim and final constitutions. Several topics it covered would be revisited once the final constitution was adopted.

The book looks at a range of issues, from access to government information to environmental, water, housing and property rights. It also covers health issues like HIV and AIDS and the question of whether employees can be forced to undergo an HIV test.

Other topics include administrative justice, fair labour practices, equality

with special reference to gender and race, the RDP, the Masakhane campaign and the role of local government in democratising sport, culture and education opportunities.

Gutto said the guide attempted to present the constitution and the bill of rights in a form understood by ordinary citizens. The metropolitan council and the centre had decided not to wait for the final constitution because there was an urgent need to educate communities on their newly acquired rights.

The council's human rights information centre is to use the guide to hold community workshops in greater Johannesburg and the nine provinces later this month, and plans to raise private sector funds to distribute the R35 book free to poorer communities.

Greater Johannesburg mayor Isaac Mogase said the book formed part of a "holistic approach" to transforming the city. The new era of human rights demanded that local government overhaul the manner in which it interacted with employees and the community both at a political and administrative level, he said.

Judges questioned on membership of secret groups

(252) 20 1/8/96

CAPE TOWN — Judges seeking appointment to the Appellate division were questioned on their membership of secret organisations, including the Freemasons and the Broederbond, in interviews with the Judicial Service Commission yesterday.

Judge Piet Streicher, who sits on the Witwatersrand Bench, said he had been a member of the Ruyterweg from 1964 to 1977, but it had been "more a discussion group than anything else". However, after 1977 his political views had changed.

Judge Ralph Zulman, who holds an acting appointment in the Appeal

Court, said he had joined the Freemasons when he was fairly young, and went to a few meetings. He resigned when controversy arose several years ago about masonry and the judiciary.

Although he had listed it in a document submitted to the commission as a possible secret organisation, the secrets were confined to its "rituals and so on".

Commission chairman Chief Justice Michael Corbett said he received a letter on Tuesday from the master of the masons' Grand Lodge in the UK explaining that masonry was a private, not a secret, organisation.

Zulman said membership of the masons did not mean a judge could not be impartial and do his job. He did not believe masons in SA tried to interfere with the administration of justice or judicial appointments.

Judge Fritz Brand, of the Cape Supreme Court, said he had been a member of the Broederbond from 1978 to 1991. He had joined because people for whom he had the highest regard belonged to the organisation.

Today the commission interviews candidates for the Cape, Transvaal and Transkei divisions of the Supreme Court. — Sapa.

THURSDAY
AUGUST 1, 1996 ★

SAFETY NOT GUARANTEED, SAYS HOLOMISA

Call to revise TRC clauses on witnesses

(252)
CT1/8/96

JOHANNESBURG: As the TRC runs the risk of losing credibility because of his sacking, the legislation regarding the protection of witnesses should be revised, Deputy Environment Minister Mr Bantu Holomisa said.

AXED Deputy Environmental Affairs Minister Mr Bantu Holomisa has called for legislation on the Truth Commission to be revised — especially clauses dealing with witness protection.

Holomisa said yesterday the Promotion of National Unity and Reconciliation Act did not guarantee the safety of witnesses as it merely focused on protection from physical threats.

He was reacting to statements by Truth Commission deputy chairman Dr Alex Boraine that Holomisa's dismissal had created the impression that he had been fired because of his testimony before the commission, in which he renewed allegations of corruption against Public Enterprises Minister Ms Stella Sigcau.

Holomisa said he believed the commission ran the risk of losing credibility because of the action taken against him.

"If the commission still wants to be credible, I advise it and the government to revisit those clauses on the protection of witnesses."

Holomisa has been summoned to appear before the ANC's national disciplinary committee in Cape Town on August 14 to answer to three charges arising from his testimony to the Truth Commission.

He received a copy of the charges yesterday, shortly before leaving on his last assignment as deputy minister by attending a workshop in Sasolburg in the Free State on improving the industrial town's environment. The charges deal with misconduct, bringing the ANC into disrepute and conduct unbecoming of an ANC member or elected representative of the party.

Holomisa must still decide whether to appear before the inquiry to be presided over by Water Affairs Minister Mr Kader Asmal.

He said soon after receiving the charges yesterday that he would "dream over it".

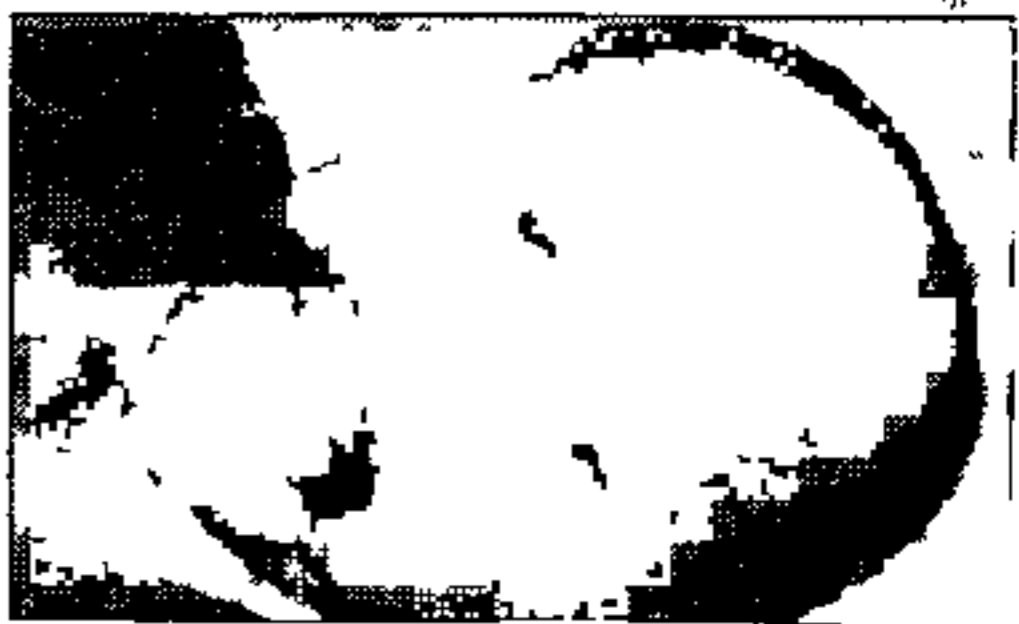
Meanwhile, the Truth and Reconciliation Commission is to seek a meeting with the ANC to "iron out" differences that have emerged over the dismissal of Holomisa.

Boraine, who has been criticised by the ANC for calling on President Nelson Mandela to give reasons for Holomisa's dismissal, said yesterday he wanted to avoid a potentially acrimonious and public debate on the issue.

"I'll be seeking to arrange a meeting to straighten things out. I don't see this as an adversarial situation," he said.

However, the commission had a right to express its concerns at actions taken by any organisation which could discourage people from appearing before it. "It has that right and it will continue to exercise that right," he said.

Boraine said he was encouraged by the fact that Mandela "has over and over again emphasised the independence of the commission and it was in that spirit that I made that comment" — Sapa



No end to telling of this story

Star editorial on Truth Commission hearings in Soweto erred, writes Murphy Morobe

(252) RSM 2/8/96

The Star's journalists over the years to be of such calibre

On the face of it, there are two different views juxtaposed, with the editorial suggesting that The Star stands aside from the band of critics it refers to as "people wondering about whether anything can be achieved" by the repeated re-telling of an "eminently well-told story"

While the editorial suggests that it is these faceless people who see the Truth Commission's proceedings in Soweto as a mere "collection of copyright complaints and rambling reminiscences" and a "farce", one can't help but feel that these "wondering" people do not exist, but are carefully constructed characters to make the editorial seem not insensitive

The testimonies of Goldblatt, Dube and the others I heard that day were no more than genuine pleas from people whose lives were turned into misery by a system that was not accountable to anyone. How can this be a farce? What is a farce

is the fact that the occupants of that notorious police green-car remain faceless. Surely there are administrative records somewhere showing who used which police car and when? What about the records detailing those who took up position to open fire on students on June 16 1976?

True, it happened 20 years ago. It is true that in those 20 years the stories of June 16 have been told and retold. But it is also true that in that period, the mere act of the retelling of these supposedly well-told stories also resulted in many more killings, banning, detentions without trial and disappearances at the hands of the security forces and other surrogate forces - what the Truth and Reconciliation Commission would refer to as gross violations of human rights.

Would the people whom the editorial refer to also have a legitimate concern about the continuous re-telling of that other well-told story of the concentration camps of Nazi Germany?

Who in the Truth Commission, and of those who were approached and appeared before it, would stoop so low as to want to

use it as some "status symbol" based on delusion?

Someone must tell me what is wrong with the commission wanting to understand exactly what was happening in and around the events it is charged with investigating.

Why should we take for granted that the truth commissioners know everything about this so-called "eminently well-told story"?

They, like many South Africans and newspapers like The Star, were for a long time subjected to unremitting state propaganda and unfortunately, in certain instances, to the submissive acquiescence and unmitigated connivance by other writers with the regime of the day.

If it is those individuals who testified about what they experienced and perceived to be gross violations of human rights on themselves, their children, wives, friends and their communities, what conceivable status symbol can they hope to gain out of

telling about how they were dehumanised, robbed of that precious gift of sight by people who in any civilised society would be considered to be public protectors? In the interest of press freedom one cannot insist The Star reveal those "people" whose comments it found so profound that they warranted an editorial about their supposed views on the Truth Commission's proceedings in Soweto. One is left with a feeling that these "wondering" people are just a phantom, designed to give the author of the editorial a useful cover to unfairly criticise the proceedings. It (the editorial) left no meaningful target for anyone who might want to respond to the misguided aspersions cast on those who risked the pain of retelling their stories to help the commission in its difficult task of establishing the truth and helping us towards reconciliation. **Murphy Morobe is chairperson of the Financial and Fiscal Commission, a former Soweto student activist and a former Mass Democratic Movement/UDF leader.**

On the day of my appearance before the Truth Commission on the Soweto uprisings of 1976, I heard the whole day's testimonies. I sat through Janet Goldblatt's account of the death of her father, Dr Melville Edelstein, and heard her deeply felt desire of wanting to know, wanting to understand. I also heard the blind Mr Dube telling about how an undiscriminating volley from the notorious "green-car" robbed him of his sight.

Humbling in both these instances was the total lack of bitterness but also the expressions of desires and hopes in a way that can by no stretch of one's imagination be construed as "status" seeking.

So, it was with great trepidation that I read The Star's editorial of July 25, headed "Oh! Soweto!"

I have a great respect for press freedom, and I have an even greater respect for any journalist who is not only critical but can accept constructive criticism. I have known

Pollsmoor doctors 'still cover up torture, abuse'

CT 2/8/96

(252)

(253) (254)

ROGER FRIEDMAN

POLLSMOOR Prison doctors continue to cover up the torture and abuse of prisoners, a nurse said during a lively debate this week to discuss how South Africa's medical profession can best prevent the recurrence of complicity by doctors with state security structures.

"Still today, inside prison halls, there are gross violations of human rights," nurse Mr Andries Slinger told the gathering at the UCT Medical School. "Doctors are covering up certain things and are issuing fraudulent death certificates."

Earlier, the audience heard that some doctors found to have been party to human rights violations in Chile, Argentina, Uruguay and Brazil were dismissed from the medical profession after truth commissions in those countries.

Evidence of complicity by doctors in South Africa has begun to emerge before our Truth and Reconciliation Commission.

Last year the Medical Association of South Africa (Masa), a voluntary body with 14 000 members, issued a collective apology for doctors' roles in supporting apartheid by commission or omission.

Whether a medical truth commission should be held was the subject of the debate.

Arguing in favour of such a commission was Dr Leslie London, lecturer in community health at UCT and chairman of the board of the Trauma Centre for Victims of Violence and Torture. Arguing against it was Mr Gavin Dampster, Masa's medical ethics manager. They were joined by Dr Mary Rayner of Amnesty International.

Rayner said there was a need for the profession to probe its own truths for the sake of the future.

"Unless all the facts are revealed, new members of the medical profession will not know where the traps lie in the future."

Amnesty International's observations in South Africa pointed to the security forces receiving "ongoing support" from some doctors — whether they falsify medical records, give false evidence at inquests or fail to stand up for a prisoner's right to treatment.

Rayner said some of the reasons doctors failed to fulfil their responsibilities included their agreement with the ideology of the state, the presence of human rights violators in their social environment or their

feeling threatened or intimidated.

She said people were still being tortured in South Africa.

Dampster said Masa had already committed itself to working with the TRC. He felt the association's code of conduct, peer review system and medical ethics education alleviated the need for a costly medical truth commission.

"Our commitment is there to learn from the past," he said.

London likened the Masa apology to a "self-declared, blanket amnesty for the profession" — even though there was "ample evidence" that the torture of detainees was continuing.

Professor Frances Ames said the medical profession was ailing as doctors were "ill-educated" herded away from the humanities to the technicalities during training.

Dr Wendy Orr, a TRC commissioner and a member of Masa's ethics committee, said yesterday it seemed an "opportune time" for several professions to investigate themselves, including the medical profession. An analysis of the medical profession's role in support of apartheid would be very helpful to the TRC, as it was trying to paint as full a picture of the past as possible.

Surprise pay boost for truth czars

Justin Pearce

MEMBERS of the Truth and Reconciliation Commission received unexpected salary increases of 25% during July, only a few months after they started work.

The increase brought each commissioner's pre-tax earnings to R28 750 per month — about R15 000 after tax.

But not all the commissioners are happy about the increases, and are planning to donate the extra

money to other causes.

The increases came as a surprise to the commissioners and were only announced in the middle of July.

The commissioners have not yet discussed a united response to the salary increase. But there appears to be a difference in attitude between those commissioners who come from a non-governmental organisation background and are used to a more modest salary, and those who worked as professionals before being appointed to the commission.

Commission member Mary Burton,

(252) M+C 2-8/8/96

a trustee and former president of the Black Sash, said she had written to Minister of Justice Dullah Omar saying she did not want the increase.

"I don't need it, and I don't think it's right to be paid such large salaries as there are such gaps in our society."

Burton said she had requested the money be paid directly into the President's Reparations Fund, which is intended to provide funds to implement the recommendations of the truth commission.

"If an investment is being made in the commission, it is logical that the

money should be used in the same area," Burton said.

Justice Ministry representative Paul Setsetse said the commissioners had been granted the increases to keep their salaries in line with those of judges. The ministry was not aware of any requests for the money to be redirected, he said, but pointed out the commissioners were free to donate their salaries elsewhere as they chose.

But commissioners have pointed out it would be preferable for the money to be redirected before being

paid as salaries and taxed.

Truth commissioner Richard Lytster said the increases were "inappropriate", and he would request the ministry to reverse its decision on the salaries. If this could not be done, he would put the extra money into a charitable trust or the reparations fund.

John Allen, representative for FRC chair Desmond Tutu, said Tutu has, up to now, given half of his salary to bursaries for the children of Anglican clergy, and for students at the University of the Western Cape of which he is chancellor. He will continue to give half of his post-tax earnings to these causes. Tutu's new salary will be around R30 000 before tax, or around R17 000 after tax.

Three-month wait for trial

THE average time awaiting-trial prisoners spent in the Pollsmoor Maximum Prison before their trial was 95 days this year, Correctional Services Minister Dr Sipo Mzimela said yesterday. ~~(253)~~ (252)

At the end of June there were 28 360 awaiting-trial prisoners — 23,9% of the prison population

Replying to a question tabled in the National Assembly by Mr Douglas Gibson (DP), he said the average length of detention at the Pretoria Local Prison was 101 days

In reply to a question tabled in the Senate by Mr Ray Radue (NP), he said 1 311 complaints of assault were brought against prison warders last year and 828 in the first six months of 1996

Last year 461 warders were charged and 11 convicted. Of the 245 warders charged this year, one had been convicted so far — Political Writer

CT 2/8/96

Sebe evokes little sympathy as he seeks pardon for bombings

By JOHN YELD

Kwane Sebe, the 38-year-old son of the late Ciskei dictator Lennox Sebe and one-time head of the "independent" homeland's so-called Elite Unit of police, has asked the Truth Commission for amnesty.

Sebe's crimes were two bomb attacks the first on a Keiskammahoek bottlestore in May 1989 and the second on a half-completed house in Peddie in December the same year.

The properties were owned (co-owned in the case of the bottlestore) by Zandisile Ngwanya, Sebe's one-time deputy in the intelligence-gathering Elite Unit

effectively, the homeland's security police.

Sebe, then boasting the rank of lieutenant-general, ordered the bombings, which were duly performed by a team of explosive experts from the Ciskei Defence Force.

Sebe claimed a direct political motive for his actions - something the Truth Commission's founding act requires to be proved before amnesty can be granted. His application form, completed in an untidy hand and containing several spelling mistakes, attempted to substantiate this claim.

The bottlestore, Sebe wrote, was being used as a front for a

political organisation Iliso Lomzi (Eye of the Nation) which consisted of dissidents wanting to overthrow the government of his father Iliso Lomzi, in turn, was a front for the SA Defence Force's Military Intelligence, which wanted to destabilise the region and overthrow the Ciskei government.

The Peddie house, Sebe claimed, was intended to be used as a safe house for Iliso Lomzi. Ngwanya, who held the rank of major-general, and his co-director of the bottlestore, Fikile Galya, who was secretary-general in the office of president Lennox Sebe at the time, both told the amnesty committee they had had nothing to do with

Iliso Lomzi.

Ngwanya said he had fallen out with Sebe because of his "tendency" to detain people without any reason and to misuse government money. In particular, Sebe was unhappy at "silly things" which Ngwanya had allegedly said about him during the court case about the death in Ciskei police custody of Idasa's Border region co-director Eric Mntonga, in July 1987. Later, there was evidence that Sebe had attempted to humiliate Ngwanya by ordering prison staff to make him work in the prison piggery after he had been sentenced to two years' jail for attempting to defeat the ends

of justice in the Mntonga case.

The trial judge, who sentenced Sebe for the bombings to a strong finding that he had acted out of personal vengeance against Ngwanya. Sebe cut a lonely figure at the amnesty hearings this week, evoking no visible sympathy from the audience of about 100 who sat listening quietly to the proceedings.

Such sympathy, as there might have been was probably further eroded as Ngwanya and Galya testified about their treatment at Sebe's hands - 51 days' and 108 days' detention without trial respectively - and about his dictatorial, bullying and corrupt

behaviour.

Sebe was the most feared man in Ciskei and had been "untouchable" in spite of his misuse of power and pilfering from state coffers, the amnesty committee was told.

Sebe may yet be granted amnesty by the Truth Commission, if his application is successful.

But if it isn't, there may well be a case for the commission to consider another step recommending some form of clemency or reduction in sentence which, despite Sebe's dubious background and political history, justice would appear to demand.

(252)

SRW

3/8/96

Ciskei strongman asks for amnesty

(252) ARG 3/8/96

■ Kwane Sebe – once Ciskei's most feared man – is now pleading for forgiveness.

JOHN YELD
on the Truth Commission

KWANE Sebe, the 38-year-old son of the late Ciskei dictator Lennox Sebe and one-time head of the former homeland's so-called Elite Unit of police, has asked the Truth Commission for amnesty

If there were anything even vaguely comical about his application to the commission's amnesty committee during its hearing in East London's City Hall this week, it was the fact that his application form revealed he had been born on Guy Fawkes' Day in 1957

Sebe's crimes included two bomb attacks. The first on a Keiskammahoek bottlestore in May 1989 and the second on a half-completed house in Peddie in December the same year

The properties were owned – co-owned in the case of the bottlestore – by Zandisile Ngwanya, Mr Sebe's one-time deputy in the intelligence-gathering Elite Unit – effectively, the homeland's security police

Unlike the efforts of the infamous British saboteur, however, who was arrested mid-way through his treasonable plot to blow up the British parliament on the day of Sebe's birthday way back in 1605, the Ciskei strongman's attacks were all too successful

Sebe, boasting the rank of Lieutenant-General at the time, ordered the bombings which were duly performed by a team of explosive experts from the Ciskei Defence Force

Like Guy Fawkes, Sebe claimed a direct political motive for his acts – something the Truth Commission's founding Act requires to be proved before amnesty can be granted

His application form, completed in an untidy hand and containing several spelling mistakes, attempted to substantiate this claim

The bottlestore, Sebe wrote, was being used as a front for a



□ **PRESIDENT' SON:** Kwane Sebe, son of the former president of Ciskei is said to have detained people at whim

political organisation Iliso Lomzi – Eye of the Nation – which consisted of dissidents wanting to overthrow the government of his father

Iliso Lomzi, in turn, was a front for the SA Defence Force's Military Intelligence which wanted to destabilise the region and overthrow the Ciskei government – “to put it bluntly, ‘set the whole Eastern Cape ablaze’”

The Peddie house, Sebe claimed, was intended to be used as a safe house for Iliso Lomzi

“It was the strategy of Operation Katzen – a Military Intelligence operation – to infiltrate certain businesses and rural areas for destabilisation of the Eastern Cape, including the overthrow of the Ciskei government and fomenting violence against progressive organisations”

Mr Ngwanya, who held the rank of major-general, and his co-director of the bottle-store Fikile Gatya, who was secretary-general in the office of president Lennox Sebe at the

time, both told the amnesty committee they had had nothing to do with Iliso Lomzi

Mr Ngwanya said he had fallen out with Sebe because of his “tendency” to detain people without any reason and to misuse government money

In particular, Sebe was unhappy at “silly things” which Mr Ngwanya had allegedly said about him during the court case about the death in Ciskei police custody of Institute for Democracy in SA (Idasa) Border region co-director Eric Mntonga in July 1987. Later, there was evidence that Mr Sebe had attempted to humiliate Mr Ngwanya by ordering prison staff to make him – Mr Ngwanya – work in the prison pigsty after he had been sentenced to two years' imprisonment for attempting to defeat the ends of justice in the Mntonga case

The trial judge who sentenced Sebe for the bombings made a strong finding that he had acted out of personal vengeance against Mr Ngwanya

Sebe evoked little sympathy from the small audience who sat

listening to the proceedings?

Even such sympathy as there might have been was probably further eroded as Mr Ngwanya and Mr Gatya testified about their treatment at Sebe's hands – 51 days' and 108 days' detention without trial respectively – and about his dictatorial, bullying and corrupt behaviour

Sebe was the most feared man in the Ciskei and had been “untouchable” in spite of his misuse of power and pilfering from state coffers, the amnesty committee was told

He had thought nothing of ordering the detention of people who disagreed with him or who were considered rivals for a woman's affection

“Because of a girlfriend, he detained a person under Section 26 of the Security Act. If he had a quarrel with a person, he would call the police and the person was detained in the cells,” Mr Ngwanya testified

The amnesty committee must still decide whether to accept Sebe's claim that he had ordered the bombings with a political motive, and its decision is not expected for several weeks

But his present incarceration in Middledrift prison in the Eastern Cape has once again thrown up those one of those apparent anomalies in the South African legal system, which, to a legal layperson, appear unjust

Sebe is serving an effective 21-year jail sentence – nine and 12 years' respectively for the bombings which destroyed two buildings. No one was injured or killed in either attack

Yet the heaviest sentence handed down to those involved in the killing of Eric Mntonga – who died a horrible death after being beaten, tortured and suffocated by Ciskei security policemen in their Mdantsane offices on July 24 1987 – was an effective 12-year jail sentence for culpable homicide and defeating the ends of justice

Sebe may yet be granted amnesty by the Truth Commission. But if not, there may well be a case for the commission to consider another step. Recommending some form of clemency, which despite Sebe's dubious political history, justice would appear to demand



THE LAW UNTO OURSELVES

Fed up with crime and a judiciary unable to deal with it, villagers are taking the law into their own hands, writes **VICTOR KHUPISO**, who, with photographer **JOE SEFALE**, witnessed justice being handed down, township style, near Hammanskraal

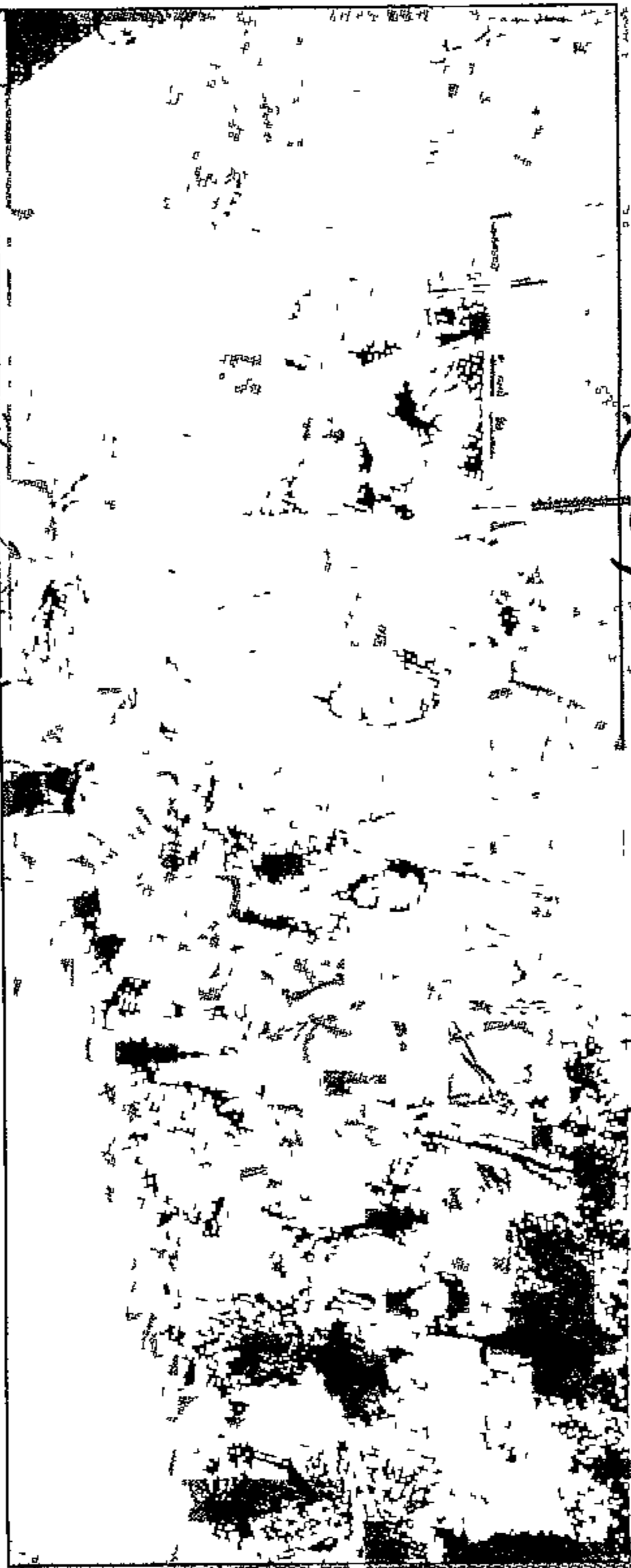
BLOOD spattered the veld when Matiu Ngako, 23, was forced to lie over an oil drum and youths took turns to flog him with a home-made sjambok.

After 10 savage cuts, he staggered to his feet, swearing vengeance on his attackers. He was then kicked, punched and dragged to his house, and sjamboked along the way. Ngako was unconscious and appeared seriously injured when the mob finally dumped him in the street.

Labelled a notorious criminal, he had been judged and condemned in a "people's court" at Lefatheng, near Hammanskraal, by villagers who said they were tired of growing crime and lawlessness.

Incidents of "people's justice" are becoming common in squatter camps and townships. But the enraged villagers did not mind my presence, nor that of a photographer, as we witnessed Ngako's trial, judgment and bloody punishment over a period of three hours on Wednesday morning.

"We're tired of criminals," they shouted. "You can write anything!" We had gone to the village because of the rising incidence of witchcraft-related killings in the area. We had come across a



SITTING IN JUDGMENT . . . the convened elders of the people's court of Lefatheng Village

Most objected to the idea of sending him to the police. There were shouts of "no, no" as people argued he would not be punished and would be protected.

One man told the "court" that Ngako had stolen his four goats in 1994 and sold them. He had laid a charge against the suspect, but he had been released as there were no witnesses to tes-

Asked to show his bank book, he said he did not have money but would borrow from friends.

The elders then called on the crowd to vote on whether he should be taken to the police or punished by the "people's court". The majority voted for immediate punishment, saying he should be given at least 10 lashes.

The elders found him guilty, saying the lashes did not mean he was hated, but would show him "the right way to live".

Ngako was ordered to lean over a drum, and told that he would have to find his mother and apologise to her for the problems he had caused before he would be allowed to reside in the village.

He was then savagely sjamboked by youths who took turns, forbidding the elders to take part and warning them to watch.

The crowd clapped, cheered and jeered as they watched the punishment being meted out. Ngako, too weak to stand, was then helped to his feet and asked to say a word to the elders.

To their disbelief, he said he would leave the area but would return to take his revenge. Turmoil broke out, and the enraged youths, whose numbers had now swelled to more than 30, screamed at the elders not to interfere as they punched and kicked him.

They led him away, saying he had undermined the court's authority. The beatings stopped only when elders who had not taken part in the "court" proceedings pleaded with the youths, arguing that "justice" had already been done.

Interviewed later, police spokesman Captain Oupa Mathe at Tembisa police station in nearby Hammanskraal assured villagers that police would do everything to fight crime. However, they had to cooperate.

No charges had been laid following the incident involving Ngako, he said. Attempts to establish what had happened to him have drawn a blank.

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DUE PROCESS 1) Ngako (centre) refuses to submit to his punishment; 2) and 3) outnumbered, Ngako is hauled over a barrel and beaten across the buttocks 10 times; 4) after punishment has been meted out, Ngako receives a few more blows for good measure while on his way home



AWAITING SENTENCE ... Matjiu Ngako (right) awaits the verdict of the elders' court while seated next to the man chosen to execute sentence

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gathering of elders under a big tree in an open field nearby, and had been told we were welcome to stay. While the elders were discussing witchcraft, about a dozen youths manhandled a man into their circle, claiming he was a trigger-happy thief. They had a wheelbarrow full of groceries, chairs, toys, Bibles and pastoral garments which they said he had stolen from the local church and a crèche. The youths demanded that the man be charged, or they would take the law into their own hands. The elders then allowed them to explain what had happened, giving the accused a chance to answer. The case was discussed among the elders as a crowd of about 100 villagers gathered, and it was decided to have a show of hands on whether he should be punished or sent to the police.

tify in court. If the suspect was not punished, he would tear him into pieces in front of the elders, he said. "We can't be intimidated by criminals," he shouted against a background of chanting as the crowd voiced their agreement. One of the elders, Ngako's father-in-law, stood up and admitted the accused man had terrorised villagers, including his own parents. He said he had caught the man assaulting his daughter, but the suspect had threatened to shoot him for interfering with Ngako's own parents. Ngako's own parents had fled the village because he had threatened to kill them. Ngako, given a chance to defend himself, said he had stolen because he was unemployed. However, he was sorry and would repay everything. He would also become a police reservist.

Commission strips wigs from judicial applicants

ST 4/8/96 (252)

By KEN VERNON

A FEMALE activist lawyer has created a storm in legal circles by claiming that the male-dominated Transvaal Supreme Court has objected to her being appointed to its ranks.

Kathy Satchwell made the accusation during Judicial Service Commission hearings in Cape Town this week at which prospective judges were quizzed on their competence to hold high judicial office.

During the hearings, it was alleged that three out of four judges applying to become Appeal Court members had been members of secret organisations, from the Broederbond to the Freemasons.

Satchwell, applying for a Transvaal Bench post for the second time, startled the commission when she said that following her previous appearance before it, she had heard adverse comments had been made about her against which she had been unable to defend herself.

Pressed by Arthur Chaskalson, Constitutional Court president and a commission member, on the "unfair" comments, she said she had been told that a report had been made to the effect that the "entire current Bench of the Transvaal have objections to working with me".

After a titter of surprise rippled through those present, the subject was quickly dropped.

Earlier, Satchwell stunned the commission when she said she had been told that, despite attorneys now being allowed to appear before the Supreme Court, the Transvaal Bar Association had adopted a policy that they not be given judgeships.

The hearings have lifted the lid on a previously exclusive legal club and allowed an insight into the human face under the wig.

Another revelation is that the cut and thrust of a sharp mind that can tear apart a criminal's defence works just as well on a prospective judge.

When advocate Essop Patel, applying for a place on the Transvaal Bench, neglected to mention in an applicant's questionnaire his conviction on 16 counts for failing to submit tax returns, advocate George Bizos pounced.

Did Patel not think that 16 convictions might rate as an embarrassment, he asked?

All the advocate could do was plead guilty. He said he should have mentioned it, but he felt the convictions were a matter of negligence rather than dishonesty.

While he felt he would be a good judge, he was admittedly a "bad book-keeper".

Satchwell also received a grilling from her "colleagues". Despite her plea to be regarded as a lawyer who is a woman rather than a woman lawyer, she was persistently asked what she could bring to the bench "as a woman" — by the only female commissioner, advocate K Moroka.

"I'm a lawyer and a woman and it is difficult to see where the two merge and the degree to which they can be separated," she said.

Asked if she felt she was temperamentally suited to judgeship, she said that while she was aware that some people were not comfortable around a confident, assertive woman, "if I were not (confident and assertive), I would be failing in my obligations as a lawyer".

Compared to the fireworks in the hearings for the Transvaal Bench, those for the Appeals Bench seemed almost tame.

Mr Justice F D J "Fritz" Brand came in for relentless questioning by Bizos when it was learnt that he had once been a Broederbond member.

Bizos noted that while he had indicated in the questionnaire that he had not been a member of any political organisation, he had in fact been a Broederbond member from 1978 until 1991.

Judge Brand replied that he had not regarded the Broederbond as a political organisation because *Broeders* had come from various political parties.

"I belonged to a group of professional people — an intellectual group — and I believe we had very little effect on government policy," he said. He had joined because he had a "high regard" for the moral integrity of members he knew.

Mr Justice P E Streicher admitted he had been a member of the Ruitewag — a kind of junior Broederbond, but he had viewed the secret organisation as more of a "discussion" group.

He "could not remember" if he was a member of the National Party or not, nor could he recall if he had ever made a donation to the party. Since 1977, when his political views had changed, he had moved in a different political direction.

Mr Justice R H Zulman said he had been a member of the Masonic Lodge — "possibly a secret society, but possibly more correctly, a society with secrets".

He said he had regarded the lodge as more of a welfare society, but had quit when a "hullabaloo" had arisen over it.

ST 418196

Apartheid law gets dusted off

By CARMEL RICKARD

AN OBSCURE apartheid-era proclamation which prevents meetings of black people in "black areas" is still being enforced.

In letters held by the Sunday Times, Ingwavuma magistrate P Z Xulu refuses to give permission for a meeting, using the legislation as justification.

Now both the magistrate and President Nelson Mandela are being taken to court in an action to test the legislation's validity. The President is included because it was his predecessor as head of state who made the proclamation.

The law, signed by then-State President J J Fouché in 1968, says that anyone who holds or addresses a meeting "at which more than 10 blacks are present", without special permission, is guilty of an offence.

Ingwavuma residents want a meeting to discuss the appointment of a local chief, Mndeni Mngomezulu. They say they are dissatisfied with the appointment, and that everyone should be allowed to air their views at

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a public meeting.

However, Xulu refuses, saying members of the community have no right to question the appointment.

He says: "It must be clear that *ubukhosi* is the birthright of Mngomezulu, and nobody can debate it."

In a later letter, Xulu says, after consulting Mngomezulu, he is "unable" to allow the meeting.

This week, one of those requesting the meeting, laboratory technician Dumisani Vilane, launched a Supreme Court challenge to the magistrate's refusal.

The Legal Resources Centre in Durban, acting for Vilane, says the proclamation was part of apartheid legislation clearly intended to suppress the right of black people to freedom of speech and assembly. They say the legislation must be void, because it applies only to black people, and limits all citizens' rights to equality.

It also "flagrantly offends against the fundamental freedoms of expression, assembly and association" guaranteed in the new Constitution

'Survivors of ANC camps silenced'

Stephané Bothma

CONCERNS that the political nature of the truth commission would betray many survivors hoping to testify before it were raised by DP leader Tony Leon yesterday

Leon told the Jewish Board of Deputies in Johannesburg that he was especially concerned for the survivors of ANC camps — many of whose voices had already been silenced by commissioners turning off their microphones saying that witnesses' time had expired.

"Already those who dare speak damning truths are silenced by disciplinary hearings and dismissal. I am afraid the ANC's autocratic slip is showing once again," Leon said.

He said during 1992 and 1993, three commissions of inquiry had investigated and reported on gross abuses of human rights at ANC prison camps in Zambia, Mozambique and Angola. All three commissions, two initiated by the ANC itself, had revealed details of torture, abuse and indignities suffered by ANC members inflicted on them by their government in exile

"Yet, four years on, the ANC has taken no action against any people implicated in these reports

"The people found to be directly or indirectly responsible for abuses — either by being involved in human rights violations or by being aware of them

BO 5/8/96 (252)

but not taking action — read like a who's who of the SA government. They include Cabinet ministers and provincial leaders, many of whom hold positions of power, ironically in the field of law and order," Leon said

Among those implicated by one of the commissions were Defence Minister Joe Modise, ANC KwaZulu-Natal leader Jacob Zuma, National Intelligence Agency internal service director-general Sizakele Sigxashe, Deputy Defence Minister Ronnie Kasrils and Foreign Affairs Minister Alfred Nzo, he said

"While they (the ANC) are anxious to expose and punish anyone willing to exhibit disloyalty to the party, they are less eager to castigate any ANC members willing to betray common standards of decency and morality"

Leon said the ANC had for years claimed a moral high ground over the NP, but the human rights violations condoned by them made it hard to make such a claim with any legitimacy.

He said the ANC leadership regularly covered up unpleasant truths and said government's commitment to transparency and accountability should be questioned

"If our democracy is to succeed, we must be willing to exert a stubborn watchfulness on this government. We must demand responsibility.

"It is our obligation to criticise and theirs to answer criticism," Leon said

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Dr Fazel Randera .. establishing a human rights culture in South Africa will be one of the Truth Commission's legacies.

PIC CLAIRE KEETON

Local TRC office to postpone hearings

By Claire Keeton
Feature Writer

THE Truth and Reconciliation Commission's biggest centre, based in Johannesburg, is shifting its focus from public hearings to community education and collecting statements of human rights abuse

"We've accepted that the Johannesburg office has been too dominated by hearings, therefore we will reduce the number of hearings for the next five months, postponing six hearings until next year, said commissioner Dr Fazel Randera

"We need to step back and evaluate if we are meeting the objectives of the TRC Act. We will still visit the areas as planned, train statement-takers and set dates for hearings in the new year," Randera said

According to office manager Mr Patrick Kelly, the TRC has four regional offices, based in Johannesburg, East London, Cape Town and Durban with the same staff levels, but the Johannesburg region is responsible for almost half of the people in the whole country

His office has a heavy workload, covering the former Transvaal and its neighbouring ex-homelands. They had received nearly 1 000 statements by the beginning of August, not as many as they would like, given the size and history of the region

Randera said the office started off over enthusiastically in scheduling hearings weekly without enough consideration about the preparations needed before every hearing

"We first need to visit the community, train statement-takers, form partnerships and collect the statements"

He said the commissioners saw the hearings as a "window" on human rights violations, but the statements would have equal relevance when it came to compiling their report on human rights violations in South Africa from 1960 to 1993

The TRC is developing a more accessible, streamlined form for the statements of human rights victims "It

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Johannesburg office takes care of almost the whole country

will be more person friendly and question orientated," Randera said

This means that the TRC could circulate the forms through newspapers and organisations for victims to complete themselves, instead of being dependent on the short supply of statement-takers

Nearly 100 statement-takers have been trained by the Johannesburg office, more than in the other centres, and they have been most successful in collecting statements from the Vaal

The Johannesburg office has formed three teams with three members each to cover different areas in the region

Energy and thought

The "North" team, in which Randera works with Ms Joyce Seroke and Professor Piet Meiring, is responsible for North West province, Vaal and West Rand

"We are trying to cover as many areas as possible. However, we need to put more energy and thought into the area of special hearings," Randera said

A commissioner for the Human Rights Violations Committee, Randera said it was important for them to work with the Amnesty Committee so that their findings did not contradict each other

Initially the committee members in the Johannesburg office met weekly, but that no longer happens as a result of the hectic schedule of hearings for both committees

Another problem with organising meetings in Johannesburg is that the Amnesty Committee members are mostly in their Cape Town headquarters when they are not sitting in hearings

But Randera said the office is planning a *bosberaad* for all commissioners, statement-takers, investigators, researchers and other members of staff to reassess their priorities as outlined by the Act

"We have had less time to consider

broader aspects of our work as we have got involved with the nitty-gritty of how we are functioning, and we want to look at the TRC and human rights," Randera said

He said establishing a human rights culture in the country will be one of the legacies of the TRC

Kelly said "The Commission will put more effort into educating the community and collecting statements, and running the hearings as part of that"

Another concern of the commissioners is where they are going in terms of reconciliation, and adding substance to the concept of reconciliation

"We come from a climate in the past 33 years where people took sides. They learnt lessons the hard way and now we need to introduce new values"

He said the churches, medical fraternity and other interest groups had begun to re-evaluate their role in the past "Reconciliation needs to be a national effort, not a TRC effort"

A medical doctor, Randera said there was "undoubtedly a great deal of strain" among TRC staff "I have noticed people falling ill (more often than usual in winter), which is an indication their immune system is taking a knock from the stress"

He said he was sleeping worse than ever before in his life, waking up in the early hours of the morning thinking about work. But Randera stressed

"Overall there is a strong feeling of optimism that the Commission is on track"

● Schedule of Johannesburg office hearings

- August 5 Sebokeng
- August 12 Pretoria
- September 2 Nelspruit
- September 23 Klerksdorp
- October 7 Gyan
- October 21 Tembisa
- November 4 West Rand
- November 18 Moutse
- December 2 Kathorus

PROSECUTIONS 'COUNTER-PRODUCTIVE'

Mbeki throws down gauntlet to TRC

25/23/8/96
(252)

THE CRITICAL task for the TRC is to determine political responsibility and lines of accountability, Mr Thabo Mbeki said yesterday. **ROGER FRIEDMAN** reports.

THE ANC threw down the gauntlet in its address to the TRC yesterday, calling on it to pursue apartheid cabinet ministers, judges and magistrates to fulfil its mandate of promoting reconciliation and national unity through revealing the truth behind the conflicts of the past.

Deputy President Thabo Mbeki delivered his party's submission to the TRC yesterday.

"Above all, (NP leader) F W de Klerk has the responsibility to inform the nation about the activities of the covert repressive machinery that he headed when he took over from Mr P W Botha," the ANC said.

Mbeki said the "basic question" facing the commission was the extent to which "each of the acts of gross violations of human rights" were sanctioned by the NP (or bastard) political leadership, the cabinet or structures to which executives were delegated.

Mago's bomb in response to raid

ROGER FRIEDMAN

THE June 14 1986 Largo, Barabomb — here held the people and injured 69 — is commemorated the 10th anniversary of the June 10 invasion and the first anniversary of the apartheid government's failed Gabroine in July 12 1986.

The security forces — the part and in its administration of the by the part President Thabo Mbeki to the Truth and Reconciliation Commission.

The ANC said it believed it had been fighting a just war recognised as such in international law. It had never intended to target civilians which was borne out by its use of landmines.

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TRUTH & RECONCILIATION COMMISSION

which could create the impression that by approaching the commission they were laying themselves open to prosecution.

"It clearly cannot happen because, if it does, nobody will come. It clearly does not help the process," he said.

which could create the impression that by approaching the commission they were laying themselves open to prosecution.

which could create the impression that by approaching the commission they were laying themselves open to prosecution.



SERIOUS READING: Parliamentary Speaker Ms Frene Ginwala and former ANC secretary-general Mr Cyril Ramaphosa read the ANC submission to the TRC yesterday, as the statement is read into the record.

PICTURE BENWY GOOL

Call to reopen Hami murder investigation

Cape Times man on death register

THE ANC has asked the Truth and Reconciliation Commission to re-open investigations into the murder of Chris Hanu.

The request is contained in the party's submission to the commission yesterday, in a chapter under the heading "covert action and state-sanctioned gross violations of human rights in the negotiations era of the 1990s".

CONTAINED in a list of 93 ANC comrades who died of natural causes in Tanzania between late 1963 and 1991 was the name of a former Cape Times cub reporter, Andile "Chuxy" Nteyi, who deserted the paper to skip the border into Botswana in August 1982.

The right-wing organisation Orde Boerevolk was a "key example" of the depth of the apartheid regime's covert activities, the ANC said.

"After their escape to the UK, hunger strikers Henry Martin and Adraan Maritz revealed that far from being radical white right-wingers, they were in fact working as agents of the Department of Military Intelligence with the specific brief of destabilising black communities in general and the ANC in particular.

One of Nteyi's colleagues and friends at the Cape Times, Mr Enrico Kemp — now a Department of Foreign Affairs spokesman — said yesterday Nteyi's mother was initially told by the ANC that he died in a car accident in Lusaka. A memorial service was held in Gugulethu in his honour.

'Apartheid reinforced on all fronts'

IMMIGRATION

THINK FEEDING MOST PEOPLE FUNDS FOR PENINSULA SCHOOL TO WALK 20KM TO RAISE WHEN WE CAN WE'RE GOING

ROGER FRIEDMAN... denial of human rights under apartheid here, but the shameful behaviour of the medical establishment in the events surrounding the death of Steve Biko and the distortion of justice which systematically occurred in the South African law courts are just two examples.

Excesses: ANC apologises

The ANC used its submission to the Truth and Reconciliation Commission to apologise to the victims of any "excesses" perpetrated by its members.

The party attached copies of the 1993 Motsuanyane Commission report (into allegations of human rights abuses committed by the ANC against ANC members) and the 1992 Skweyaya Commission report (investigating complaints against the ANC by its former prisoners) to its submission yesterday.

"To the extent that the Motsuanyane Commission found that some detainees were maltreated and recommended that the ANC should apologise for these violations of their human rights, the ANC does so without qualification" — Staff Writer

Many judges were political appointees, and judicial commissions produced "ideologically-oriented reports which promoted the goals of the apartheid state or covered up its culpability in cases of gross human rights violations".

"In all of the state institutions referred to above there were government appointees who, quite clearly, were carefully chosen to advance the cause of apartheid," the ANC said.

Festive finish to walk

CONTESTANTS in the Cape Times-Southern Life Big Walk on October 13 can forget about tired feet and enjoy a festive finish.



When they cross the line at Culemborg Exhibition Centre on the Forester, it will be to the accompaniment of the foot-tapping sound of oompah bands and an invitation to join in the razzmatazz of the Cape Town version of the famous Munich Oktoberfest.

The new festive dimension to SA's third biggest sporting event came about when organisers, the Rotary Club of Claremont, decided to move the traditional finish at the Grand Parade to Culemborg and found that the walk date coincided with the last day of the Oktoberfest.

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Table Mountain Aerial Cableway (TMACC) Maintenance Notice

The cableway will be closed from Monday, August 26 until Sunday, September 1, 1996 (both days inclusive) for scheduled maintenance

Join the Peninsula School Feeding Association

Blisters sponsored walk on September 1996. Unlike many other walks held over this time, every sponsored kilometre walked in the Blisters for bread' helps to feed a hungry primary school child.

For details of the various routes or to obtain sponsorship forms, please contact Rosemary Kahn - Tel: 47-6020.

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Harbour

Planned for Kosi Bay?

WN CORRESPONDENT

URBAN: Portnet has launched a site planning exercise that could involve turning Kosi Bay into a use-liner harbour.

One of the last unspoilt estuaries in the country, the Kosi Bay south and its chain of four shallow lakes lies on Kwazulu-Natal's border with Mozambique.

A new harbour on the north coast could give foreign ecotourists easier access to the game reserves and cultural attractions of e-Maputaland/Zululand region.

While Portnet was reluctant to affirm or deny the report last night, speculation is rife among local communities at Kosi Bay and along the recent tourism industry hiccupper crews in the area.

Community members who estimated the crew said they were told the area was earmarked as a possible passenger ship terminal.

Conservation sources have reported that Transport Minister Mcebisi Mtshali was seen with a helicopter crew at Kosi Mouth recently although a spokesperson for his office said last night she doubted it was true.

Provincial leaders, including Premier Frank Mdlalose and Economic Affairs and Tourism MEC Mcebisi Mtshali, have also said they intend to develop the tourist potential of the Maputaland region.

But for conservationists, the possibility of turning Kosi Bay into a harbour is regarded as an environmental nightmare.

Portnet executive director Mr Mphahlele said yesterday several as along the Kwazulu-Natal coastline — "all the way to zambiqué" — were being investigated for a new passenger liner terminal.

RANDOM ROADBLOCKS SET UP

Joint security force anti-crime campaign

(35)

THE security forces in the Peninsula combined yesterday in the first of a series of operations to provide a visible crime deterrent. Our STAFF WRITERS report.

THE police, air force and army combined yesterday to set up a series of roadblocks around the Peninsula to increase visible policing.

They searched cars at random. Police and SANDF members were transported by helicopter from Air Force Base Ysterplaat to the roadblock sites "to show our force level", SANDF spokesman Major Roland Williams said.

The roadblocks formed part of a new anti-crime initiative involving the SAPS and SANDF, he said.

A police spokesman said there were at least four teams setting up roadblocks around the Peninsula yesterday afternoon.

The latest operation was aimed at "showing that we are ready and that we can work together as a team", Williams said.

Two teams of 16 men each — including members of the 1 Parachute Battalion — landed on a Ruyterwacht rugby field before setting up roadblocks in Viking Way and Showground Road.

An Alouette helicopter remained in the air as the command aircraft.

Earlier, another Oryx and the police helicopter had been seen getting ready for take-off at Ysterplaat.

Williams said "This operation was to increase visibility and try to

Sorting out city centre

CT 23/18 196

TAKING up the challenge to improve conditions in the city centre the Cape Town City Council set up a high-powered committee yesterday to deal with the problem.

The Chamber of Commerce highlighted its concerns about deteriorating standards in the city last month in a paper entitled "Towards a master plan to better manage the central city."

Members of the new committee include exco chairperson Ms Nomandla Mfeko, her deputy Mr Saleem Mowzer, and councillors Mr Leon Markowitz, Mr Hanif Taseker and Mr Revel Fox. There will also be three delegates from the chamber.

The chamber wants a proposed new by-law, controlling street trading more strictly, to be implemented immediately. Council officials explained yesterday that the hold-up in this case was in the offices of the provincial legislature.

In addition, the chamber wants a review of the by-laws relating to the control of begging, vagrancy and prostitution.

This could turn out to be political dynamite, because the trend up to now has been toward liberalisation.

In its paper, the chamber said night shelters could only be successful "if effective control is exercised to ensure that no people are permitted to sleep on the streets".

The chamber said prostitutes had become increasingly brazen, resulting in their acceptance as "inhabitants" of the city centre. "We in the chamber believe that this is most unfortunate and needs to be firmly and urgently addressed." — Staff Writer

stop an increase in crime and violence in certain areas.

"We are there to assist and support the police in their task. That was the essence of the operation."

This was the first time the three forces had launched a combined anti-crime operation in the Western Cape, said air force spokesman Colonel Gert Theron.

A second similar operation will follow shortly.

Lieutenant-Colonel Hesta van Straten, of the army, said there would not be much point in set-

ting up a roadblock on a minor road.

She said cars had been searched at random so that the traffic flow was not overly disrupted.

The drivers had been asked to produce their licences.

A variety of vehicles were searched, including that of a businessman in a smart car, with golf clubs in the boot.

He spoke on his cellphone while his vehicle was searched, but just smiled when asked if he was talking to his lawyer.



STRIVING FOR PEACE: Cape Town mayor Mrs Theresa Solomon addresses a crowd at the Central Methodist Church during a lunchtime prayer for peace yesterday.

PICTURE: CLIVE SMITH

Prayer initiative for peace

ERIC NTABAZALLA

"ENOUGH is enough. Peace really matters and is worth fighting and striving for and the stakes are the greatest for which humankind has ever played."

Those were the words of Cape Town mayor Mrs Theresa Solomon addressing an audience of about 150 people at a lunchtime prayer for peace in the Central Methodist Church in Cape Town yesterday.

The prayer service was opened by the Rev David Newby. Miss Rene August, who coordinated the meeting, said the aim of the prayer was to take the peace initiative into the affected areas.

"Wouldn't it be great if people from Mitchell's Plain, Manenberg, Bonteheuwel and other areas would have peace prayers at least once a week," she said.

Miss Rose-Anne Lawrence, a 19-year-old University of Cape Town student, said the prayers were a great idea to send a message to those using drugs that there were people who cared about their situation. She was wearing a T-shirt bearing a "Gun Free South Africa" logo.

Solomon said a sad fact was that street children, who had all the abilities of other children but not the opportunities, were at risk of becoming the "vagrants and law-breakers of tomorrow", unless something could be done.

Solomon's strong emphasis for the prayer was: "There is no simple formula for achieving peace, and no single act will assure peace. Only the combined results of many efforts, at different levels and at many places, will assure peace."

"Do not support something which aims to destroy the very tenet of civil obedience and right-fair living."

OVER 1000 WORTH OF PRIZES TO BE WON!

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The ANC's submission to the truth commission is a mixture of honesty and defensiveness, while the NP's

More reconciliation than



**Eddie Koch and
Marion Edmunds**

A SINGLE incident is missing from the ANC's submission to the truth commission and it speaks volumes about why both the African National Congress and the National Party this week failed, essentially to take moral responsibility for the abuses committed by their members in the apartheid years.

In July 1988 a car bomb exploded outside Ellis Park killing two civilians and injuring 38. The ANC has never denied responsibility for this attack and, because of the sophisticated technology involved, it would have been carried out by the organisation's Special Operations group.

This unit of Umkhonto weSizwe was, according to the ANC's submission, formed with the mandate of undertaking high profile attacks on targets such as the Sasolburg oil refinery, Koeberg and Voortrekkerhoogte — and it reported via a separate chain of command directly to ANC president Oliver Tambo.

And that chain of command could, according to research published by the Institute of Defence Studies, have included at least two people who now sit in the Government of National Unity: Defence Minister Joe Modise and his deputy Ronnie Kasrils — senior officials in the Umkhonto weSizwe hierarchy at the time.

Deputy President Thabo Mbeki indicated ANC military leaders would provide the commission with information on the lines of command governing former MK operatives.

And he said the ANC was encouraging individuals to seek amnesty where necessary.

The amnesty committee can, if requested, hear submissions in camera. Publication of the details of the application will only be made if amnesty is granted.

If everyone who was compromised by past abuse came clean at the truth commission — which, at least in the initial arguments for the establishment of the organisation, was seen as a prerequisite for coming to terms with the past — some members of the Cabinet would have to apply for amnesty without the prospect of automatically receiving this.

There is little doubt that the ANC's report to the truth commission is, both in its moral and academic integrity, far superior to that of the NP. It is a thorough 90-page document which effectively summarises the history of those turbulent years under apartheid.

It also includes a thick set of appendices — one of which comes refreshingly close to the kind of frankness that was expected of the political parties appearing at the truth commission. 34 names of people who were executed in the ANC's camps after being "found guilty" of being spies.

(252) M+G 23-29/8/96



CRAIG WILLIAMS:
**'You can't just stand in
a cesspool and wipe
your hands quickly and
say I am clean'**

Tom Lodge, politics professor at the University of the Witwatersrand, sums up the key difference between the ANC's conduct and that of the NP and its supporters during the apartheid period.

"In comparative terms — with reference to the general conduct of liberation wars in other parts of the world — the ANC fought a clean war. And if

armed rebellions are justifiable, the ANC's decision to take up arms was certainly defensible."

There is little doubt that most ANC members, including key leadership figures, would pass the proportionality test — that the extent of violence for political purposes was in proportion to the objective of the act — which the truth commission must take into account before granting amnesty to perpetrators of human rights abuse.

Instead of using this ethical, and strategic, high ground to produce a frankness that was expected of the truth process, Lodge says the document "takes such pains to 'contextualise' every abuse and violation of human rights committed by the organisation — that at times this effort comes close to excusing the inexcusable. As a consequence the moral weight of this document is diminished."

The NP's 35-page contains none of the complex mix of honesty and defensiveness that defines the ANC report. Reading like a matric history textbook written in the 1980s, it is devoted to a justification of the former government's actions in terms of the historical context for apartheid — with former state president FW de Klerk's apology for human rights abuse at the time limited to a small paragraph on page 28.

De Klerk's defining quote came early on: "In dealing with the unconventional strategies from the side of

... cost of moderate success

Eddie Koch

THE ANC's armed struggle never amounted to more than a "sporadic and symbolic endeavour" despite a moderately high cost in terms of deaths and casualties, says an unpublished account of the liberation movement's military tactics written by a former member of the organisation.

The study by Howard Barrell, entitled *Conscripts To Their Age: African National Congress Operational Strategy, 1976 to 1986*, presents a very different perspective on the ANC's guerrilla activities to that presented in the organisation's submission to the truth commission this week.

"Umkhonto weSizwe did not develop its armed struggle beyond the sporadic, symbolic endeavour it was when the ANC first resumed attacks inside South Africa in 1976, despite numerous decisions and attempts to do so," says Barrell in his Oxford University doctoral thesis.

The work is probably the most exhaustive account of ANC strategy and draws on extensive interviews with leaders and members of the ANC and its military wing, Umkhonto weSizwe.

"On average, slightly more than two ANC guerrillas were killed or captured by security forces for every three of the 634 guerrilla attacks between 1976 and 1986 (almost all of which were carried out by the ANC)," the study notes.

"Since many, perhaps most, MK attacks can be classified as modest in their dimensions, this casualty rate indicates a high cost for what were minimal operational rewards."

Barrell says that in 1985 and 1986 there was a shift away from sabotage operations aimed at industrial installa-

tions with an increased number of attacks being carried out on security forces and civilians.

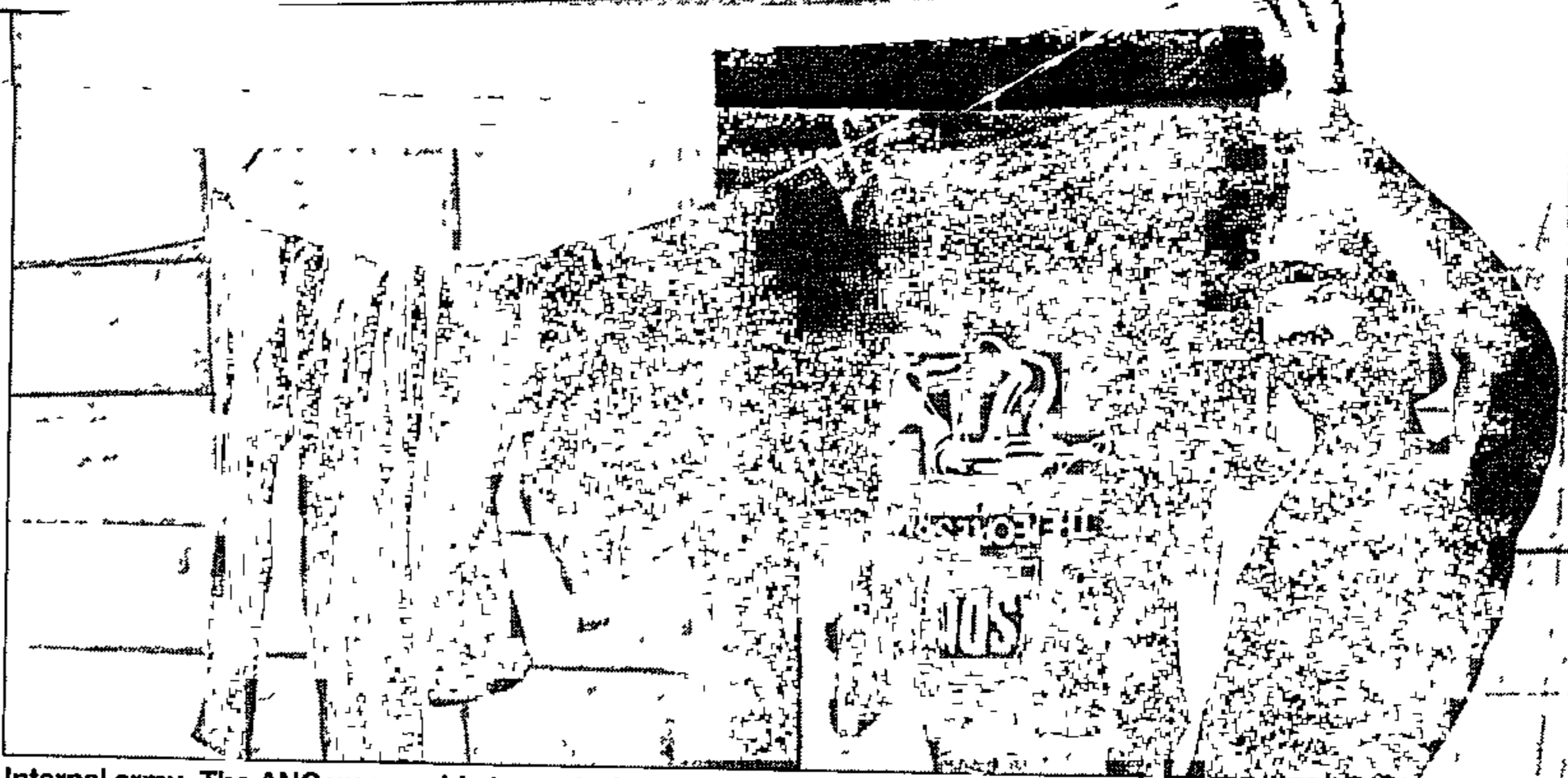
But despite some dramatic incidents — including bomb blasts in Pretoria and Amanzimtoti and attacks on Sasol and Koeberg — MK remained largely ineffectual at a military level.

"The statistics indicate that on average between 1976 and 1986, for every three insurgent attacks, which were usually modest sabotage actions, security forces killed or captured two ANC guerrillas, recovered seven insurgent hand grenades, captured three firearms and neutralised more than two limpet mines." These statistics, he says, correlate with the "frustrations and disappointments" described by ANC strategists and members interviewed for the thesis.

Barrell also points out that MK guerrillas had little success in linking up with and getting support from ANC political structures inside the country, with the result that short-term cross-border incursions remained the norm, while guerrillas who successfully infiltrated into the country generally had short periods of survival.

A deeply damaging consequence of this was that the ANC was never able to achieve its objective that political and military structures should cooperate closely — and give direction to the possibilities for popular insurrection that the organisation believed were developing in the townships in the 1980s.

"The failure of its armed struggle to make real military progress defined almost all strategic questions the ANC asked itself between 1976 and 1986. Likewise, almost all the ANC's decisions to change operational strategy and structures between 1976 and



Internal army. The ANC was unable to control activities carried out by informal groups.

PHOTOGRAPH: THEMBA HADEBE

1986 were designed to remedy this failure. And a high proportion of these decisions were never implemented."

"Non-implementation was most evident in cases where it was decided that political and military structures should cooperate more closely in the hope of creating the kind of organised domestic political base in which armed combatants might reasonably hope to survive. Personal and departmental rivalries and vanities persistently undermined these decisions."

Until about 1988, "attempts to develop an internal underground leadership of seniority and genuine organisational power were repeatedly deferred or frustrated... The result was that the ANC underground remained fractured between political and military components, each comprising units that were usually isolated from each other; the only link these units often had with the 'ANC' was with the ANC abroad, which was unable to maintain a dynamic relationship with them or provide them with tactical guidance in what was, certainly from 1984, a fast-moving situation."

This meant a further failure. The ANC was unable to control or direct insurrectionary activities carried out by informal armed groups that began operating quite spontaneously in the townships under the banner of the ANC and the United Democratic Front in the 1980s — called MK auxiliaries and then "grenade squads" by the movement's leadership. "Various ANC leaders," he says, "fought to control it [armed action by informal units operating in the townships] while it appeared to be succeeding and denied any link with it when it failed."

The thesis says the ANC leadership became obsessed with the idea that apartheid could only be ended by popular armed struggle — "a kind of Sisyphean task to which all else had to be subject" — and that this mindset was cemented by the massive levels of violence unleashed by the security forces against the organisation and its members in the 1970s and 1980s.

"Yet by the mid-1980s the evidence strongly suggested that not only was armed struggle a failure at a military level but that popular political mobilisa-

tion, including the activities of the militant trade unions, provided a more serious challenge to the state than the ANC's military campaign. Much of this political mobilisation and organisation had been initiated or conducted autonomously of the ANC," says Barrell.

"The political dividend the ANC derived from armed struggle made the resources spent on it and lives lost in it worthwhile in the ANC's calculations. Indeed, the heavier the ANC's losses, the higher that return often was: the more MK cadres being buried or marching off to jail, the greater the evidence that the ANC had dared to struggle against a brutal, powerful and internationally infamous enemy."

This, says Barrell, involved a tragic irony. Apartheid was most effectively challenged by political struggles on the part of ordinary civilians inside the country rather than by the armed actions that dominated the ANC's tactics in the 1970s and 1980s.

"Therein," says Barrell "lies the explanation for the paradox of the ANC's trajectory: how it found its success in failure."

is devoted to a justification of the former government's apartheid activities

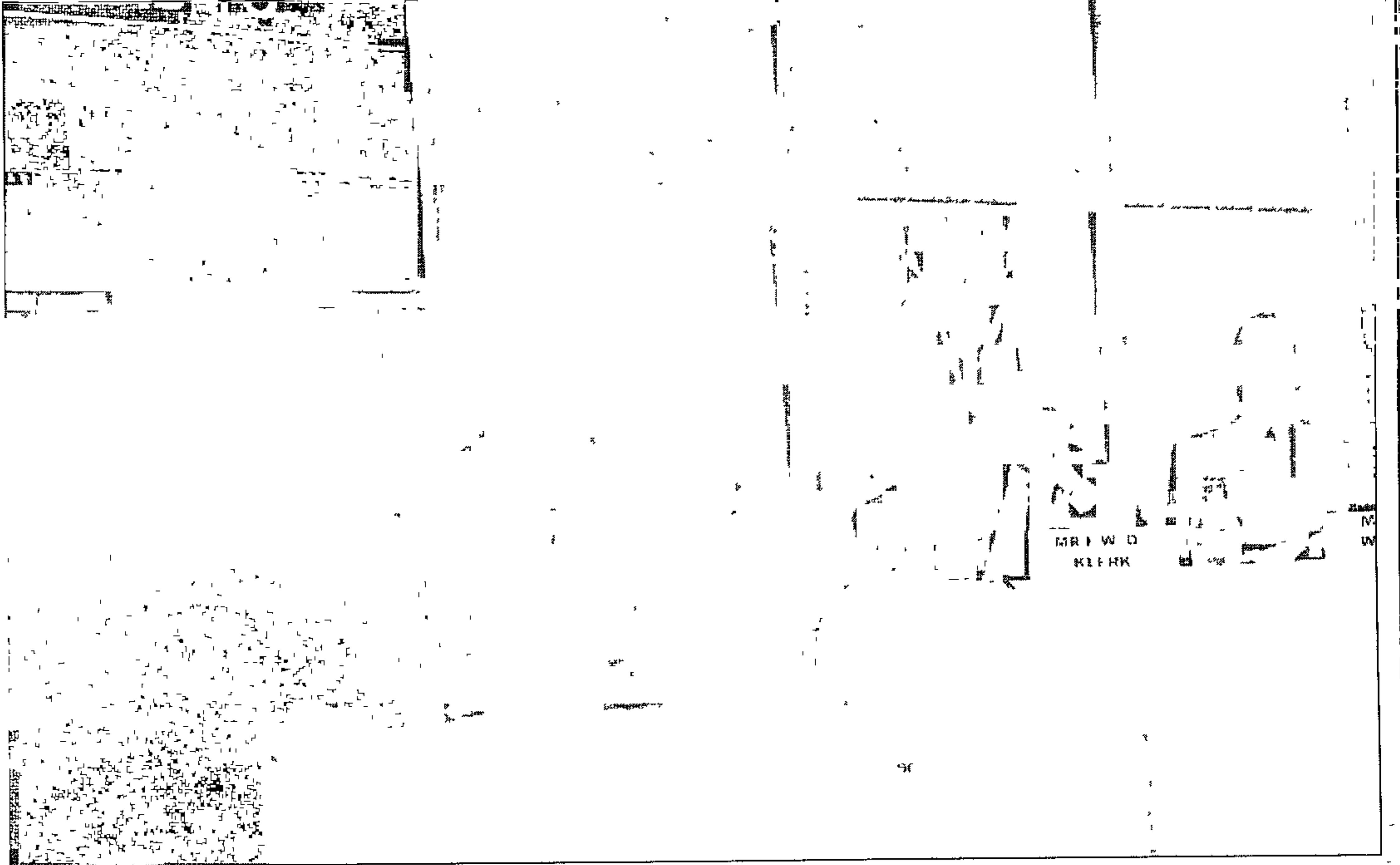
truth

the government I want to make it clear from the outset that within my knowledge and experience they never included the authorisation of assassination, murder, torture, rape assault or the like. The above statement is also a reflection of the viewpoint of my colleagues."

He made no mention of the suffering and loss of people who were resettled by apartheid nor those who were detained, banished or exiled. The explanation for apartheid was kept vague: broad sweeps of policy which appeared to create a framework for executive decision-making.

It was as though De Klerk had surrendered his adult powers of judgment to the forces of time and history. "We are all the children of our times, and the product of the cultural and political circumstances into which we were born and with which we grew up."

Janne Gagano, political scientist at the University of Stellenbosch, says it was not possible for the members of the former government's executive not to know what was going on at the time. "[Frederik] van Zyl Slabbert, the leader of the then opposition, used to tell me stories when he was in Parliament, stories which were floating around. If somebody like Van Zyl Slabbert knew what was happening in Mozambique and Angola, why did the minister of defence not know? People like him and De Klerk must have known what



In search of the truth: Commissioner Chris de Jager questions FW de Klerk while Leon Wessels looks on

PHOTOGRAPH RODGER BOSCH

was going on and if you knew you can hardly say I did not give instructions. It is like when Uli Schmidt is known to kick in the scrum but is still considered a bit of a hero and you hear them saying 'You can't be

an angel if you play in the scrum.' Says Craig Williamson, former NP politician and senior adviser to the State Security Council, "You can't just stand in a cesspool and wipe your hands quickly and say 'I am

clean'. The NP does not yet understand what its policy does and what it did, and until it does, I can't see this thing coming to rest.

The problem for the truth commission is that the ANC, with its mix of

honesty and omission, has missed the opportunity to provide the kind of collective catharsis that the organisation was expected to promote.

The class of '48, PAGE 26

Taking great pains to justify a 'clean war'

(252)

MTG 23-29/8/96

Tom Lodge

THE ANC's submission to the truth commission has commendable qualities. It is detailed, in some respects frank (for example in disclosing the names of people executed by the ANC's intelligence operations), and it is often persuasively argued. But it is also too much of a lawyer's defence rather than what it should be: a moral acknowledgement of the extent to which the organisation transgressed human rights.

The document makes a general claim that its strategic aim did not involve attacks on the civilian population which constituted the political base of the apartheid group. This is broadly true. The ANC's attacks did kill civilians, sometimes intentionally so, but this was never an absolute requirement of the strategy it adopted.

The ANC contends that it took a principled stand against terrorism and that it avoided attacks on easy targets. This is less easy to sustain. It is true that on occasions the ANC argued against the use of terrorism, but it did not always criticise its cadres when they carried out attacks which had a principally terrorist function nor did they always disassociate the organisation and its leadership from such attacks.

Chapters three and four of the present evidence do sustain an argument that the ANC was involved in a just war — the chapters mainly detail human rights violations by various South African governments until 1994. I have no major objections either to the evidence or the argument. I think that the degree of repression which existed in 1961 was of such character that the ANC's decision to embark upon armed

rebellion was morally defensible.

In chapter five the ANC argues that it consistently adopted a relatively restrained approach to the use of violence, that cadres were trained and disciplined to avoid or at least minimise civilian casualties. Generally, this is convincing — there was plenty of evidence at the time that ANC cadres took precautions to avoid killing or hurting civilians, black and white.

Quotations from leadership statements are deployed to show how the ANC attempted to govern the conduct of its warfare — but it is not clear that the language had a restraining effect. It was often, as in the cases of some of the phraseology quoted here, rather unclear in its meaning and implications.

The full texts of the ANC and NP submissions are available at the M&G's website: <http://www.mg.co.za/mg/>

ANC rhetoric between 1985 and 1988 was susceptible to different interpretations. The document does not acknowledge the leadership's responsibility sufficiently during this period for those attacks which did occur on soft targets.

The document deals in detail with a number of particular attacks that involved civilians. It justifies or explains some of the attacks which were ostensibly directed at soft targets in various ways by referring to and defending the ANC's understanding of what constituted a military target (Pretoria car bomb, rural landmines, Magoo's bar), by blaming others on cadres panicking because they would not, if captured, be accorded prisoner-of-war status, and attributing other soft target

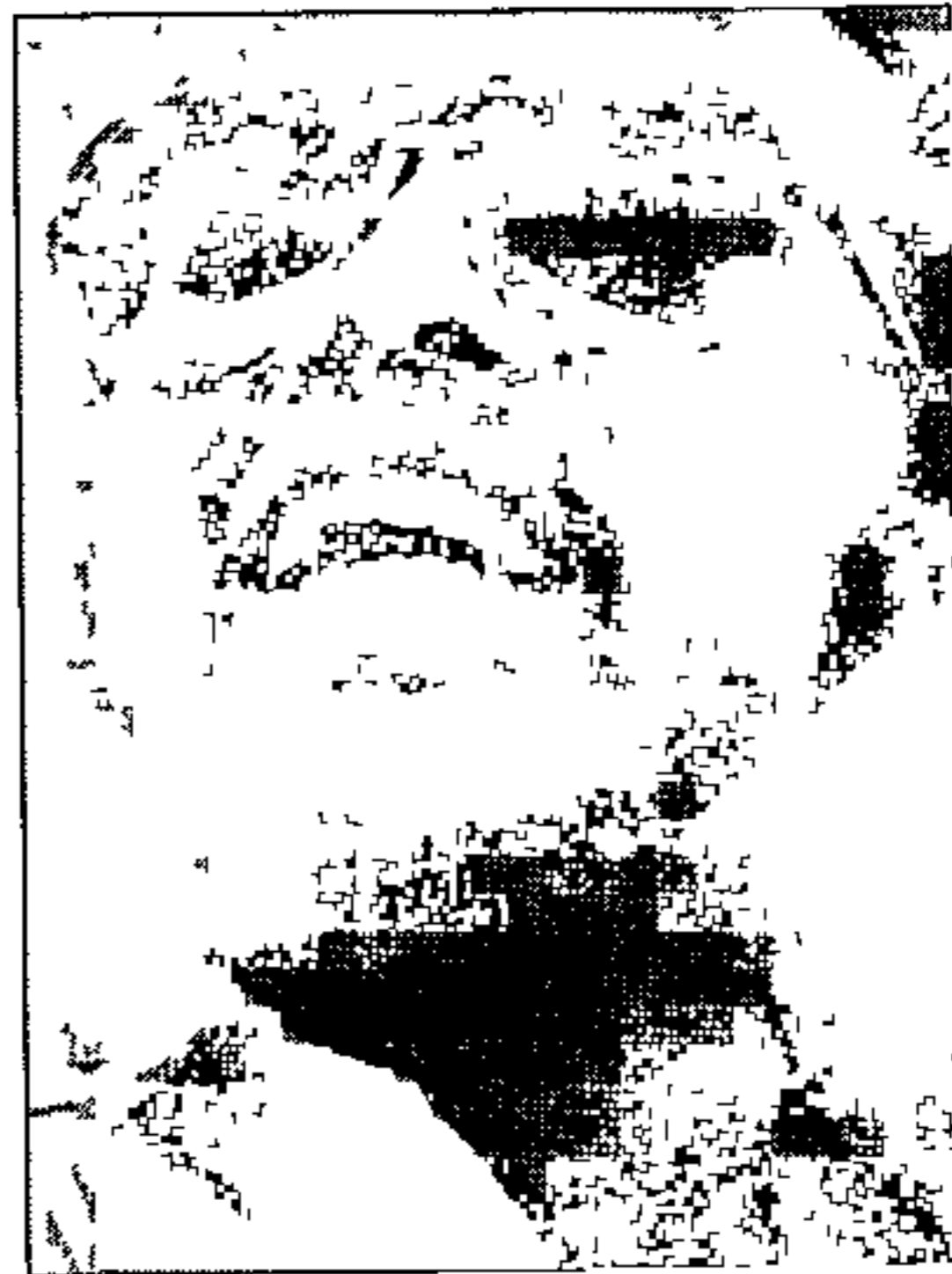
attacks either on the state's dirty tricks or on a context in which increasingly embittered cadres acted upon their own initiative (Amanzimtoti).

This part of the submission is too vague to be totally convincing. Between 1977 and 1989 at least 1 426 attacks were attributed to the ANC. Some indication of the precise scope and scale of ANC armed activity and the casualties it inflicted would be welcome. There is none here. Moreover there were some attacks on soft targets which were too well planned and too sophisticated to have merely been impulsive on the spot reactions by junior cadres to apartheid atrocities.

For example the 1988 Ellis Park car bomb, if mounted by the ANC, would have required the co-ordination of several units and fairly sophisticated technology. The document makes no mention of this incident. Are we to understand that it was an operation mounted by the authorities to discredit the ANC? Or was it sanctioned by the ANC's chain of command? This is not an isolated example. Even at the cost of a longer submission more detail should have been provided.

The report contains a section on the activities of ANC-aligned self-defence units during the 1980s. It suggests that any crimes committed by such bodies were mainly the result of efforts by state agencies to subvert the ANC's activities and discredit the organisation.

Certainly, as with the case mentioned in the report, the Phola Park SDU, this did happen — but are we to assume that all SDU misbehaviour was the consequence of "third force" conspiracies? Was not some the consequence of the propensity of badly trained and badly disciplined



CHRIS HANI:
'It [the necklace] is not a weapon of the ANC. It is a weapon of the masses ... I refuse to condemn our people when they mete out their own traditional form of justice to those who collaborate ...'

ANC supporters to bully people and exploit their relative power?

Some of these abuses were the result of police manipulation, but a lot of abuses committed by activists in the name of the ANC reflected a militarist sub-culture which the ANC itself did much to foster.

On abuse of human rights within the organisation, this document reproduces the findings of its own previous internal commissions of inquiry. Some people would argue that these commissions did not go far enough in identifying perpetrators of abuses.

The document says nothing about abuses in camps which may have taken place before the late 1970s, yet there were allegations of these from ANC defectors as early as 1968. If these can be refuted they should be.

The ANC says it consistently condemned the practice of necklacing. It did — but not immediately. Indeed, in some statements it appeared to give it some moral sanction. For example, Chris Hani in an interview to mark the 25th anniversary of Umkhonto (December 16 1986) had this to say with reference to necklacing:

"It is not a weapon of the ANC. It is a weapon of the masses. I refuse to condemn our people when they mete out their own traditional form of justice to those who collaborate. The necklace has been used against those who have been actively collaborating with the enemy. We say the movement should be vigilant to ensure that whatever sentence is passed on anybody, it is as a result of participation by revolutionary elements of our struggle."

The text in which these quotations appeared was published by the ANC and circulated widely.

In conclusion, in comparative terms — with reference to the general conduct of liberation wars in other parts of the world — the ANC fought a clean war. And if any armed rebellions are morally justifiable, the ANC's decision to take up arms was certainly defensible.

It is a pity, though, that this document takes such pains to "contextualise" every abuse and violation of human rights committed by the organisation — at times this effort comes close to excusing the inexcusable. As a consequence the moral weight of this document is diminished.

Search for a fake Camel man

Angella Johnson

INTERPOL has joined in the hunt for a British man who drove off with two customised Land-Rovers stored at a BMW showroom in Johannesburg

South African police would like to interview 23-year-old Danny Lydon, who was captured on video stealing the Camel Adventure vehicles a day before skipping the country

Lydon, who was employed as a service manager for BMW in Westgate, took a flight to Singapore. It had been booked a week earlier

He had only been with the company

for a couple of months when police believe he put into operation a carefully engineered plan to spirit away and sell the Land-Rovers

Arriving at the showroom after closing time on a Saturday afternoon, Lydon told the security guard he needed to take the two four-wheel-drive vehicles (worth about R500 000) to a presentation show

The company's video surveillance cameras showed him brazenly driving away with one, and returning about 20 minutes later to collect the other

According to Captain Jan Combrink, Lydon is believed to have tar-

geted BMW for a sophisticated scam "We think he may have done this kind of thing before. He applied for the job while staying with relatives and the company even helped him get his work permit. Then once he had established a degree of trust, he set the scheme in operation"

Mark Johnson, used-car sales manager at BMW, said Lydon was hired because of his knowledge of Land-Rovers and BMWs. "We could not find anyone with that kind of experience in South Africa, and he came with a strong recommendation from an associate"

Johnson said the thefts might not have been discovered for some time had Lydon not smashed a company car he had been driving the previous Friday evening, sparking an investigation into his whereabouts

"The Land-Rovers are usually kept locked up with other vehicles unless required for promos. It was only when we asked security if they had seen him that we heard what he had done"

Lydon's job as service adviser entailed liaising between customers and mechanics when vehicles were brought in for servicing. "He was trusted and therefore had access to all the motorvehicles on our premises," said Johnson

Soon after his disappearance, someone tried to register one of the

stolen Land-Rovers with fake documents in Bryanston. The police were called when a sharp-eyed clerk spotted discrepancies in the information. The officers confiscated the papers, but decided not to take the vehicle

"The man made out he was an innocent party and the police were persuaded to allow him to deliver the vehicle the following day," explained the investigating officer. It was later discovered that the man had given a false name and address

Although police believe one of the Land-Rovers may have already left the country, Johnson is convinced both are still here. "Maybe they have painted over the distinctive yellow, but these are very special cars. They won't be able to get very far without being noticed"

Pagad denies it's running out of steam

Pagad support appeared to be waning this week, though the organisation strongly denies it.

Rehana Rossouw reports

PEOPLE Against Gangsterism and Drugs (Pagad) called off a march to drug dealers this week, but the organisation said this was not evidence that it has run out of steam

Pagad representative Farouk Jaffer said the decision was taken because Pagad did not want a violent confrontation with the police. The movement was young, and its actions so far were just the "tip of the iceberg"

Faithful members gathered at the Gatesville mosque on Tuesday night where they received updates on the organisation's progress while their leaders conducted a press conference

Jaffer and co-leader Ali "Phantom" Parker, whom police are seeking to question in connection with charges of sedition and murder, poured scorn on the police's ability to deal with crime and to arrest them

Jaffer said until the police began arresting drug dealers and gang leaders, Pagad would continue with its "programme". Last Saturday the organisation cornered a man selling Mandrax in Athlone and poured petrol over him. He managed to escape before being set alight. The man was not arrested.

He said Pagad would continue to visit dealers to "conscientise" the police about them. "We will be witnesses, the police will have to arrest them"

Jaffer and Parker said they had spent most of last week travelling to other parts of the country in response to calls to launch Pagad elsewhere. They had helped establish the organisation in Kimberley, in Lenasia and Laudium in Gauteng, in Pietersburg and in Paarl in the Western Cape

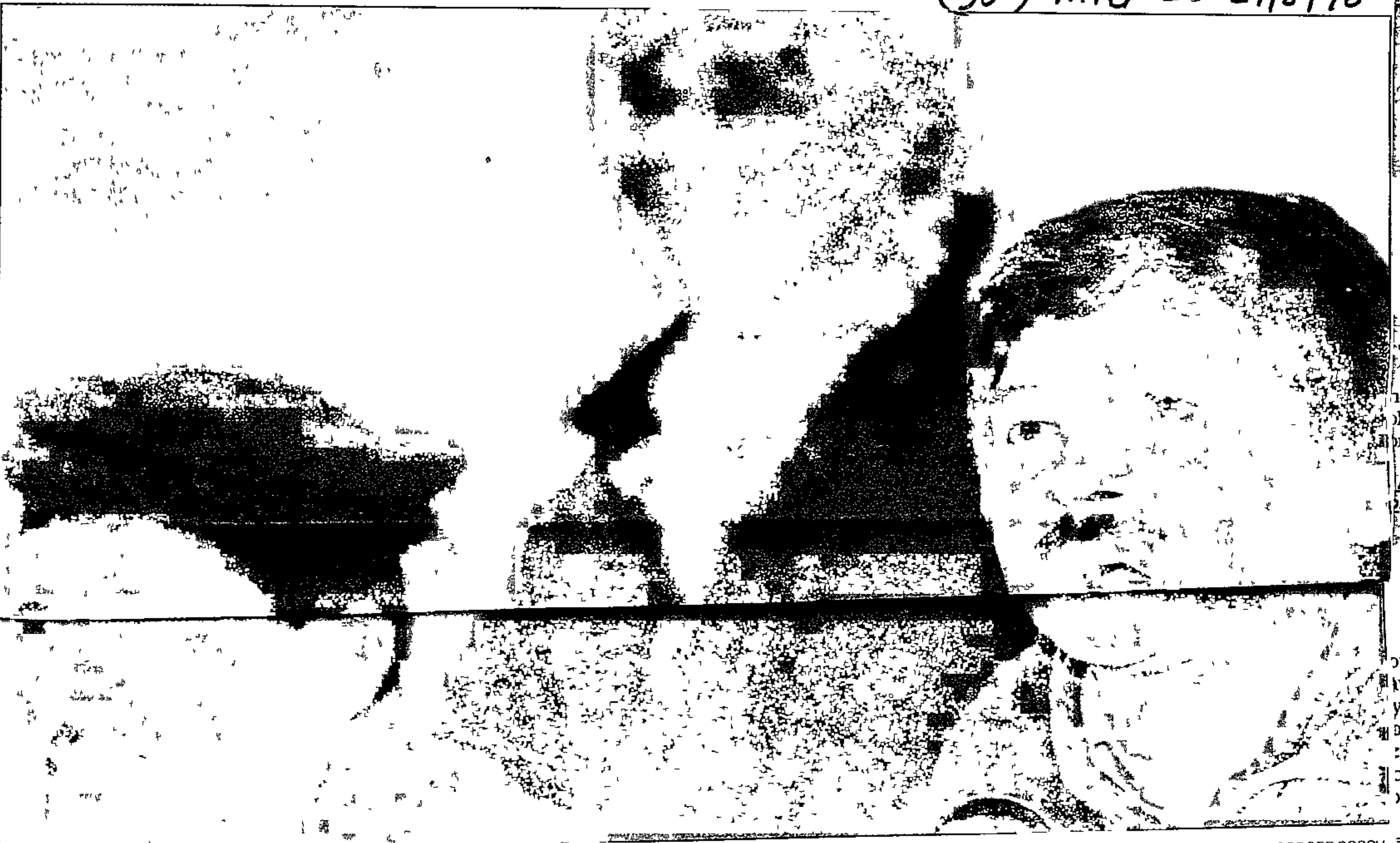
About 400 supporters — considerably fewer than at Pagad's previous gatherings — gathered at the mosque on Tuesday night. The gathering was monitored by a heavy police and army contingent, and it dispersed quietly after being told the march was off

Parker dismissed police attempts to arrest him and Jaffer, saying his continued freedom was evidence that the "whole police system has collapsed"

Both men's homes were raided last week and another Pagad leader, Nadhmi Edries, was arrested and charged with sedition. He was released on R10 000 bail

Sedition is described in South African law as "gathering together with a group of people with the intention of subverting the authority of the government"

A Cape Town newspaper reported that detectives were investigating charges of sedition and murder against Pagad. The public has been asked to assist the police in tracking



Brothers in arms: Ali Parker (left), Farouk Jaffer and a masked Pagad member hold a press conference at Gatesville mosque

PHOTO RODGER BOSCH

Natal offshoot's conservative links

Ann Eveleth

THE KwaZulu-Natal offshoot of People Against Gangsterism and Drugs (Pagad) is a politically conservative shadow of its Cape-based mother body, with mainly National Party supporters rallying around calls to confront homosexuals at gay bars and "deal forcibly" with doctors performing abortions

Led by a Muslim activist, a Hindu priest and a Christian pastor, the mainly Indian group has transcended the "Muslim" stereotype attributed to the controversial Cape movement, but has failed to win support from the province's Muslim left wing

About 200 Pagad supporters marched in Durban last week under banners echoing the recent NP election slogan, "Hang the killers, hang the rapists". Pagad leaders say the

other targets cited during the march — homosexuals, abortionists, gamblers and prostitutes — are those of a separate organisation, the National United People's Organisation (Nupo). The leadership and many members of Pagad and Nupo are, however, one and the same

"Drugs and gangsterism are the current issue," says the chairman of both organisations, Rashid Suleman

While Pagad's Hindu leader, Vedic Pandit Randuth Nagaser, says he has doubts about Nupo's alliance with Pagad, as he opposes violence, critics say Suleman's greatest claim to fame is a recent debacle when he was caught carrying a gun in court during the emotive trial of two men charged with murdering Chatsworth schoolgirl Natasha Sookdeo

Pagad's Christian secretary, Pastor Eugene Perumal of Chatsworth's Soul-

Savers Outreach Mission, is more candid about the group's objectives: "Pagad is limited to gangsterism and drugs. Nupo is also targeting shebeen lords, abortionists, homosexuals, prostitutes, and morality in general. We are one group, two organisations"

While Perumal says the group wants to work with police and remain non-violent, he adds: "We are armed. The people are armed. If the need for violence arises, it will take place"

He says the group intends protesting outside Durban's gay bars to urge homosexuals "to repent", and will demand that doctors and back-street abortionists stop performing abortions. "They are going to be seriously approached. If they refuse, we're going to take them out by force"

It is this approach, which comes from sections of the community which opposed the armed struggle of

the liberation war, that has kept the Muslim left wing at bay

The Muslim Youth Movement has reserved judgment on Pagad for the time being: "We strongly feel Pagad has the right to do something about evils in its community, but we don't want people to take the law into their own hands," says the movement's secretary, Saydoon Sayed

Organisation for Civic Rights leader and African National Congress member Iqbal Mohammed blames Suleman for the poor response to Pagad in Durban: "Pagad's development in the Cape was grassroots, but Suleman has no standing in the community"

Pagad's strongest message of support comes from the conservative Muslim council, Natal Jamiat-ul-Ulema, which says it "shares the concerns" of Pagad and warns that if the government fails to act on crime, "more and more groups will emerge to do battle with the criminals". It has stopped short, however, of supporting Pagad's call to arms

down Parker and Jaffer. Police warned that Parker was "heavily armed" and should not be approached if spotted

Yet, since the raid, both Parker and Jaffer have appeared at Pagad gatherings. Parker addressed supporters at a gathering at the Gatesville Mosque last Friday and the two hosted this Tuesday's press conference

Armoured vehicles surrounded the mosque before the press conference, but no attempt was made to arrest or question the two Pagad leaders

Western Cape police spokesman Superintendent John Sterrenberg said reports that police were intent on arresting Parker and Jaffer were incorrect. They were merely "invited" to assist police with their ongoing investigation into the sedition and murder charges

Sterrenberg said the searches of Jaffer's and Parker's homes were conducted within the parameters of the Criminal Procedure Act and the police involved did not have warrants for their arrest

They were merely "invited" to assist police with their ongoing investigation into the sedition and murder charges

The two men were not approached during their appearances at the mosque because "it would be extremely insensitive, to say the least, for the police to enter the sanctuary of a place of worship"

He conceded, though, that a case of sedition would have to be made against more than one person

All Blacks win, while blacks lose

The Springboks are losing to the All Blacks and many people believe the black community in South Africa is also on the losing side, writes **Nicola Byrne**

WHEN South Africa take the field on Saturday for their second match in the Test series against New Zealand, once again the only black players on the pitch will be wearing the opposing team's colours

With the row over the South African Rugby Football Union's (Sarf) commitment to the new South Africa still simmering, Sports Minister Steve Tshwete this week admitted to the *Mail & Guardian* that his power to coerce the rugby authority was limited

Speaking after a meeting with Sarfu officials on Tuesday, Tshwete said "We've made it quite clear that if they don't follow our suggestion, then they are living in the past. We have to keep putting pressure on them and persuade, persuade them. We have no other means

"We can't take a big stick and beat

them — unfortunately funding isn't something we can use against them. They are even richer than my department."

Tuesday's hastily convened meeting came as a result of the sports minister's criticisms of Sarfu's development policies last week. On the day the Springboks suffered their second successive defeat at the hands of the All Blacks, Tshwete asserted that the association's development policies were nothing more than a ploy to get white rugby back into the international arena. His outburst provoked an angry reaction from Sarfu, but this week the minister went on to make the point further

"Blacks are already finding it hard to identify with what they are calling a lily-white team. If there is no visible development at upgrading black players at junior levels, then the Springboks will forever be a white team and they will not be representative of this country."

Tshwete's comments were especially injurious to Sarfu, given their timing at the end of a week when the association launched its new development programme, a high proportion of which concentrates on the promotion of the game in the black areas

Certainly on the surface, the association appears ready for change. An impressive development budget shows R15-million spent already this year, a sizeable percentage of which was used to provide and upgrade facilities for young black players. In the *Blueprint for a Dream* brochure, which accompanied the launch of the development programme, it's difficult to spot a white face. Even the association's new letterheads are printed in Xhosa along with the traditional English and Afrikaans, although the effect is somewhat negated by the choice of Leon Shuster as the musical accompaniment on their telephone answering system.

The association strongly denies its embracing of the black community is purely cosmetic. Sarfu's commitment to the new South Africa is so strong, according to chief executive Ruan Oberholzer, that "the Springboks are the only team selected on merit. All our other representative teams are chosen with an affirmative

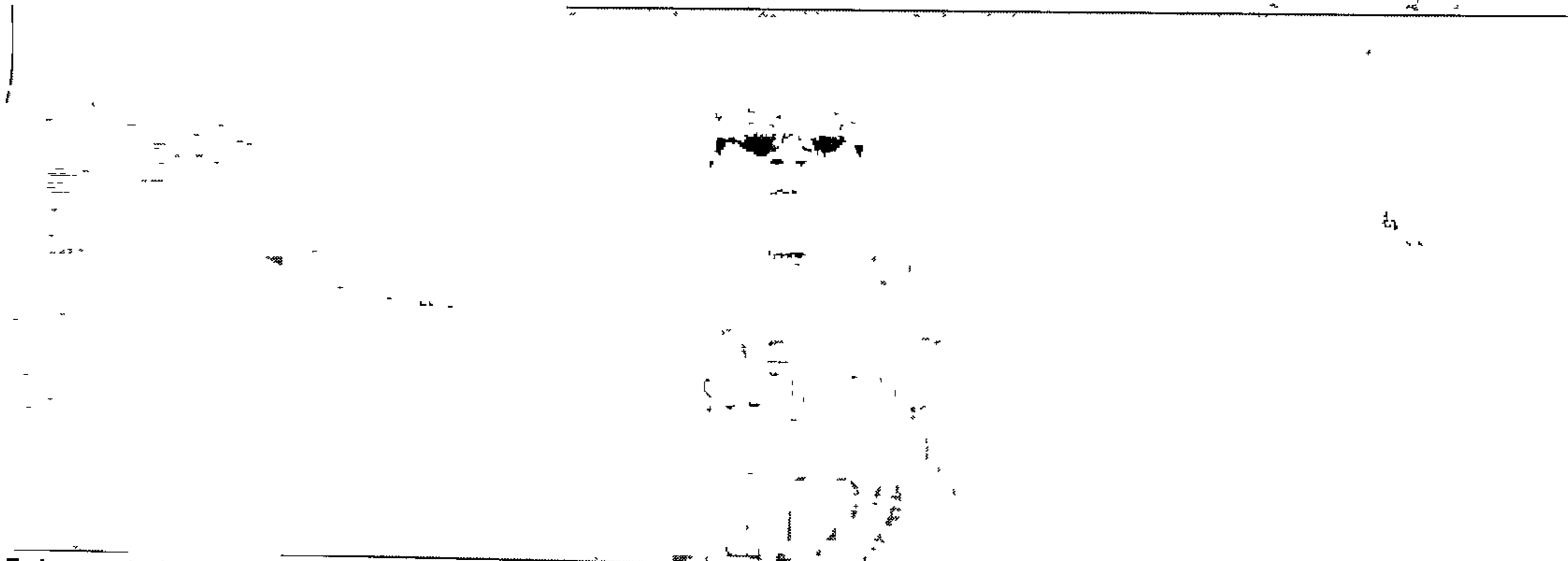
action policy. With this new programme, we're going even further to develop black interest in the game."

However, Tshwete is not convinced. "Their development programme is porous in a number of areas. They need to go back and tighten up their development of black clubs. Neither are they paying attention to the development of the game in black schools."

The result of Tuesday's negotiations was a temporary truce between the sports ministry and Sarfu. Tshwete says he will now wait to see whether the association will act on his recommendation, namely the setting up of a rugby academy "which will concentrate on the development of players of colour" and a heavier emphasis on the development of black clubs. With both the minister's and Sarfu's repeated emphasis on developing the game at junior level, it's unlikely that South Africa will field a proliferation of black players at senior national and provincial level in the near future.



Steve Tshwete: Team not representative of the country



Embracing the fruits of victory: Josia Thugwane's life has changed dramatically since his marathon victory at the Olympics

PHOTOGRAPH AP/SOUTHLIGHT

What a difference a medal makes

Nicola Byrne

THE first time Olympic gold medalist Josia Thugwane received any support from South African sporting authorities was when he arrived at Johannesburg International Airport to depart for the Games in Atlanta.

On that occasion he was given a kit bag which held two Springbok strips to add to the six pairs of running shoes which had been donated to him over the years by a major sports clothing firm.

Six weeks on and Thugwane and his family are getting ready to move into a house bought for them by the Mpumalanga government.

He is chauffeur-driven everywhere and carries a cellphone donated by the National Olympic Council, because they haven't found me a house yet," he explains.

While these newfound luxuries are very welcome, Thugwane says

he could have done with some support a lot earlier in his career. "When I had nothing it was hard to keep going, I wish I could have got some help then," he told the *Mail & Guardian*.

"But it's very nice that everybody wants to help me now and I'll take whatever I can get."

Although Thugwane first came to the attention of the national athletics federation when he won its national championship in 1993, Athletics South Africa's chief secretary, Banele Sindani, says he was not given any funding for coaching or equipment because long-distance runners "tend to go their own way".

"They concentrated more on making money from running marathons and this is very successful for many. We tend to concentrate on track and field athletes who can benefit more from training and funding."

That said, Sindani's organisation only has the scope to deal with 20 athletes in the run-up to Sydney 2000 and their programme is already full. "Of course, we would like more money but the government has other priorities like housing, education and health, only then can they look at us and we understand that point. Although we don't have an affirmative action policy here, we do try and help black athletes as they're usually in need of more assistance than others."

For some Olympians the situation was very different from that of Thugwane's. In 1994, Durban City Council spent R14-million refurbishing and heating their Olympic-sized pool, so that Penny Heyns and other Olympic hopefuls could train there during the winter months.

The obvious imbalance in sporting facilities for young black and white athletes, a large factor in the overwhelmingly white team which

the Nocsa sent to Atlanta, is unlikely to be redressed soon, according to Sindani.

Sports Minister Steve Tshwete admitted this week that paucity of sports facilities in township schools is a major source of concern to him and affirmed that the issue is a priority for his department.

However, it's unlikely the racial mix of the team which goes to Sydney in four years' time will be significantly different from the team which went to Atlanta.

Echoing the sentiments of many of the country's new sports administrators, *Sowetan* sports editor Molefi Mika maintains it will be many years before young black athletes can enjoy the success of their white counterparts.

"It's not really surprising when you think in some of the townships they hardly have a running track or a swimming pool. I don't mean an Olympic pool, I mean any pool."

While the authorities continue to thrash out policy, the management of one of Gauteng's handful of black rugby clubs, Eldoromans Football club in Lenasia, says that Sarfu's new initiatives will have little effect on their week-to-week activities.

"We've got our allocation from the Transvaal Rugby Union, it's unlikely that Sarfu will give us more," says club chairman Marlon Adams. "We find that the unions are not really interested in helping out black senior players. If there's a black and white player at junior level, each with the same potential, then you'll find the rugby union will take each of them away and watch their development, give them training and so on. If you have a black and white player with the same potential at senior level, then they'll only be interested in the white player."

Last year with the aid of four white players the second division team progressed to within two places of promotion. This season, their fortunes haven't been so good. "We lost our white players," explains Adams. "We didn't have the money to pay them and they left. We wrote 40 to 50 letters to companies looking for sponsors and we couldn't get one. A lot of them say 'You belong to one of the richest rugby federations in the world why don't you ask them for money'."

Lack of funding is something plenty of white rugby clubs have in common with Eldoromans. However a credibility problem is not. "Some people still think it's strange to see coloured people playing rugby and it's hard for them to take us seriously," says Adams. "Racism is by no means gone from the game. It's not what it used to be say three or four years ago but it's not completely out of rugby and it won't be for another 20 or 30 years."

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The eradication of racism from rugby is something in which the media can play large part, according to Sarfu's chief executive. Maintaining that the development of the game was not just down to his association, Oberholzer said the media can and must play a part in changing the perception that rugby is a white elitist sport and that black players don't want to participate in the game.

Responding to his comments, Molefi Mika, sports editor of the *Sowetan* said that if there were more black players in the game, his newspaper would allot more coverage proportionally.

"Show me a black Springbok, show me a black Western or Eastern Province player," he said. "If they were there, we'd put them in our paper."

Mika also questioned the commitment of the current senior national side to developing the game into a non-racial one. "Recent things suggest that some people haven't been honest and the Springbok captain Francois Pienaar is one of them. Nelson Mandela fought hard against opposition to give them their Springbok emblem and this is what they say as a thank you."

"Pienaar portrays himself as a captain who has support in the black townships. Then he goes and welcomes the old flag to games. I'm not sure these guys know what they're doing."

revor Manuel: What do you think?

<http://www.mg.co.za/mg/news/96may/14aug-manuelletts.html>

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Tutu moves to hasten Coetzee amnesty bid

(252)

MON 17/8/96

By CRAIG URQUHART

Special arrangements are to be made to hasten the amnesty applications of Dirk Coetzee and his co-accused in the Griffiths Mxenge murder case - a move the murdered ANC activist's family last night vowed to fight at every turn.

The saga took another twist yesterday with the announcement that the Truth and Reconciliation Commission would hear the amnesty applications of the former security policeman and his co-accused, Almond Nofomela and David Tshikalanga, before any criminal trial was heard.

Commission chairman Archbishop Desmond Tutu said the truth body's human rights violations committee had decided last month to consult the amnesty committee on asking the court due to try the men to suspend proceedings "pending the consideration and disposal of their amnesty applications". The proposal was approved by the commission yesterday.

Churchill Mxenge, the murdered attorney's brother, said last night: "We will be represented in the amnesty applications and we are going to fight this all the way. They don't qualify for amnesty and

there is no chance they are going to get it". He said his family were bitter about the latest development and charged that the commission was interfering with the justice system.

"It is clear that anything will be done to help Coetzee out of trouble," he said.

The family felt the commission's power to grant amnesty was unconstitutional.

A jubilant Coetzee said he was delighted with the decision and felt "100% confident" that his application would be approved. He reiterated his claim that the pending court case was little more than a "personal vendetta between (KwaZulu Natal Attorney-General) Tim McNally and the old guard, and myself". "Sanity and logic have finally prevailed," Coetzee said.

Coetzee, who admitted taking part in the 1989 killing, appeared in the Durban Regional Court this week with his co-accused. The trial was postponed until December.

Because of the intense interest in the case, it appears likely that the commission's amnesty committee will use Coetzee's application as a test case.

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test
SSE

◆ Coetzee

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Tutu said he was aware that a number of other amnesty applications from police officers connected to the police's Vlakplaas base were being prepared for the commission.

"The commission is willing to give consideration to expediting the hearings of these applications as well, but will handle them on a case-by-case basis," he said. Although the commission had considered the views of those who wanted perpetrators of human rights violations prosecuted, it believed early amnesty hearings could save unnecessary trials and encourage perpetrators to "come forward and reveal the truth about the past", he said.

KwaZulu Natal Deputy Attorney-General Chris de Klerk said his office would press ahead with its case against the accused, but if they were granted amnesty before the trial, "we will have to abide by it".

He pointed out that if Coetzee was convicted in court, his conviction and sentence could still be overturned by the commission's amnesty committee.

(2092) ST 18/8/96
By JACOB DLAMINI

JAMES BARTON was in the wrong place, at the wrong time, with the wrong complexion. The 37-year-old coloured man was walking home on a Saturday morning six years ago when a bomb blast near a Pretoria taxi rank shattered his life and those of many commuters.

Barton had just paid his future account, and was walking near a dustbin when the bomb, allegedly planted by right-wing fanatics, went off near Bloed Street — injuring him and about 42 others. Because of his light complexion, many of those at the rank assumed Barton was the bomber, and attacked him as he lay bleeding.

This week, the father of three recounted his ordeal to a sitting of the Truth and Reconciliation Commission in Pretoria. The year was 1990, and South Africa was gripped by fear after a spate of bombings by rightwingers opposed to the changes taking place in the country.

Barton said he was walking home when he heard the explosion "I was deafened, but conscious. There was a terrible commotion, and people running for shelter."

Double blow: Bomb victim tells of his assault by crowd

The blast proved to be just the beginning of his ordeal. Barton, who was employed by a construction company at the time, spent a year and seven months in hospital.

He said "When the bomb went off, I fell near the bin I did not know I had been injured until I saw blood on my legs. I tried to get up, but couldn't. Then, because of my complexion, people thought I had planted the bomb. They started pelting me with bottles, stones and anything else they could find."

Barton said his life was saved when a man rushed out

of a fast food outlet to shield him from his attackers.

According to police, the carnage at the rank could have been greater had a second bomb, discovered in a nearby toilet, also gone off.

Arrests were eventually made in connection with the blast and a spate of other bombings. "But, even today, I don't know who those people are," Barton said.

Now unemployed, he needs constant medical treatment after losing half of the muscle and bone in his legs in the explosion. Commissioner Wynand Malan, moved by

Barton's precise testimony, thanked him, saying "I don't think there is anything you want us to do for you, except share in your experience."

Another witness testifying before the commission, Mary Shongwe, told how her son David was killed by police while allegedly trying to plant a bomb in Brits.

Shongwe said that, after her son's death, her telephone was bugged and the family subjected to constant police harassment. "I was like a rabbit being hounded by dogs. My son was not an activist — he just liked playing football."

She said her son had disappeared after driving neighbours to an ANC rally in July 1990. A few days later, police drove her to Brits, where she was taken to a mortuary and told to identify her son.

Shongwe said "They showed me a corpse with bones sticking out of the forehead, and holes in the back of its head. I told them it was not David, but they told me to look again. Then I tried to look for the burn David had on his chest, and found it. It was him — they had killed my son."

Pensioner Ellen Mvundu described how her son Moss disappeared while hiding from police in 1987. She said her son was a student activist and police would often raid her home to look for him.

"One day, I returned from work to find the police had been in the house. Everything was turned upside down — our beds and mattresses were torn, and the wardrobes destroyed," she said tearfully.

David Mabena spoke of his harassment and torture at the hands of police because of his involvement in a cultural organisation. Mabena said he was once arrested and falsely charged with possession of dagga, even though he doesn't smoke, after getting into an argument with a policeman.

Africa Initiative backed

PIETERSBURG — The Transvaal Agricultural Union said yesterday it was surprised at Agriculture Minister Derek Hanekom's concern about resettlement of SA farmers in neighbouring countries and the resultant loss of agricultural experience and expertise to the country.

Hanekom's opposition to the Africa Initiative was a repudiation of President Nelson Mandela and other Cabinet ministers who backed upliftment of African nations' agriculture and economies, union president Dries Bruwer said.

"It (the programme) was fully supported by President Mandela. Maybe Hanekom should seek the reasons for resettlement of SA farmers in African countries in his handling of agricultural and land affairs."

Hanekom had reportedly said SA could not afford the loss of farmers' experience if they should resettle on a large scale in African countries. The first group of farmers to settle in Mozambique were due to move to their new homes at the end of the month.

Sources indicated that Hanekom's latest stand on the Africa Initiative had led to reaction in ANC ranks — Sapa

BD 19/8/96

ANC, NP to face truth body

Wynndham Hartley

CAPE TOWN — The truth commission has been urged to grill political parties this week when they make their submissions to the commission on their role in the struggle for and against apartheid.

All the main political players, with the exception of the IFP, will this week submit their versions of what happened in the struggle to the commission. The NP on Wednesday and the ANC on Thursday will provide key insights into the extent of responsibility which political leaders are prepared to accept for human rights abuses committed in the name of their organisations.

A grouping of about 25 human rights, religious and legal organisations has made a plea to the commission not to simply accept the submissions at face value but to "critically evaluate all submissions and publicly challenge all parties versions of the past."

The grouping, which includes The Black Sash, the Centre for Applied Legal Studies, the Human Rights

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Committee, Lawyers for Human Rights, the SA Council of Churches and the SA Catholic Bishops Conference, said that, unlike the testimony of direct victims of apartheid, "the submission hearings offer a forum for more rigorous scrutiny and cross-examination of testimony."

It expressed concern that the commission would use the party submissions simply to gather the opinions of political parties "rather than a process which really engages with differing perspectives and which deals substantively with the complicity of a range of security police and political parties in human rights abuses".

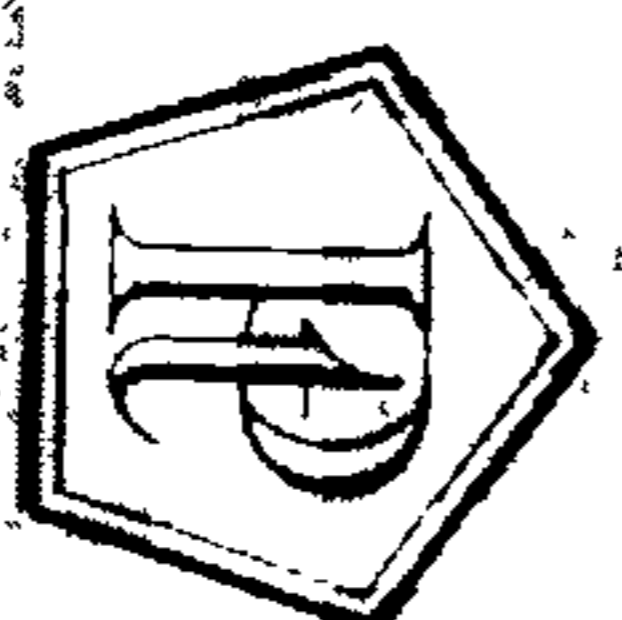
The hearings begin today with submissions by the African Christian Democratic Party (which ironically was only formed after the cut-off date for human rights abuses) and the Freedom Front.

Front leader Constand Viljoen is expected to detail some of the background to the attempts by the white rightwing to prop up the bantustan government of Lucas Mangope in Bophutatswana.

The PAC and the DP will make their submissions on Tuesday. While the PAC will no doubt explain the context of Apla attacks on soft civilian targets, the DP will tell of its efforts to record and expose human rights abuses during apartheid.

NP leader FW De Klerk will put the NP's interpretation of the struggle against the "forces of liberation" on Wednesday and he will be followed on Thursday by Deputy President Thabo Mbeki who will put forward the ANC's position.

It is understood that the IFP has a submission but failed to make it onto this week's programme



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BD 19/8/96

Leaders hiding behind operatives, Viljoen tells Truth Commission

(252) Star 20/8/96

Freedom Front leader asks for understanding of Afrikaners' role in abuses

By Robert Brand
Cape Town

Political leaders and "strategic architects" should be in the dock before the commission instead of "hiding behind their operatives", Freedom Front leader General Constand Viljoen told the Truth and Reconciliation Commission yesterday.

The FF and the African Christian Democratic Party made their submissions to the TRC yesterday. The ACDP protested against abortion, while Viljoen, a former chief of the SA Defence Force, asked for understanding of the Afrikaners' role in past human rights abuses.

The commission is sitting in

Cape Town until Thursday. The DP and PAC will testify today, the NP tomorrow and the ANC on Thursday.

Viljoen said he acknowledged Afrikaners had to accept responsibility for much that was wrong under apartheid, but stopped short of apologising for human rights violations by them.

Afrikaners had made a "grave mistake" when they allowed their political leaders to ignore "the need for a timely settlement with those other South Africans who shared the land", he said.

"We have to recognise that this mistake on the part of the Afrikaner precipitated the serious alienation and polarisation that

characterised our society in recent years and brought us into this urgent need for reconciliation."

Viljoen said he would encourage his followers to participate in the commission's processes, but was hampered by the "arbitrary" cut-off date for amnesty, December 6 1993.

The FF's "second struggle" started only after 1993, and many of his followers would not qualify for amnesty and would be hesitant to risk incriminating themselves by providing information to the commission, he said. He asked that consideration be given to an extension of the cut-off date.

He said he would be participating in a submission to the com-

mission being prepared on behalf of the former SADF by SANDF chief General Georg Meiring. In this submission, he would be prepared to give full details of his part in the military struggle.

ACDP MP Louis Green said his party objected to the passing of "dehumanising" laws such as the new abortion law while the reconciliation process was in progress.

"It is morally inexcusable for a government not to protect the right to life of all future generations, in other words unborn children, while political parties, organisations and individuals are called to account for human rights abuses of the past 40 years."

TRC set to hear spate of amnesty applications

BY ROBERT BRAND

Cape Town - A spate of amnesty applications by former members of the security police's notorious Vlakplaas unit could be heard in the next few months following the Truth and Reconciliation Commission's decision to expedite Dirk Coetzee's application.

The commission announced last week that amnesty applications by Coetzee and two of his former colleagues, Almond Nofomela and David Tshikalanga, would be heard before the start of their criminal trial for the murder of Durban civil rights attorney Griffiths Mxenge.

The two others charged with the murder, retired brigadier Jan van der Hoven and retired colonel Andy Taylor, have not yet applied. The trial is set to start in December.

Commission vice-chairman Dr Alex Boraine said yesterday that apart from the applications by Co-

etsee, Nofomela and Tshikalanga, a number of formal amnesty applications had been received from other former Vlakplaas policemen. Most were from people "on the verge of being arrested", he said.

Their applications would also be heard before they go to trial. In this way, Boraine said, the commission hoped to encourage other perpetrators of human rights violations to come forward with details of their misdeeds.

The new amnesty applications follow an approach to the commission two months ago by 22 former senior policemen on the possibility of applying for amnesty. They listed about 20 crimes for which, they said, some of them might need indemnification.

Boraine would not disclose the names of the policemen involved, but said some were among the 22 who had already approached the commission.

De Klerk unlikely to apologise for violations of rights

BY ROBERT BRAND

Cape Town - National Party leader F W de Klerk will accept responsibility for legal actions by the security forces under his presidency when he makes his party's submission to the Truth and Reconciliation Commission tomorrow.

But he is unlikely to offer an apology for human rights violations committed by the police and military during the NP's reign.

De Klerk's spokesman, Fanus Schoeman, said reports quoting the former president as saying he would apologise were incorrect.

"He never used the word 'apologise'," he said, referring to an interview with De Klerk on *Good Morning South Africa* yesterday.

The submission, according to sources, is 25 pages long and will take about an hour to deliver.

Jan 20/8/96 (252)

'We will take blame for apartheid' - FW

(252) Sowetan 20/8/96

Sowetan Correspondent

FORMER South African president Mr FW de Klerk said yesterday the leadership of the National Party would accept blame for apartheid crimes during Truth and Reconciliation Commission hearings this week.

"I'm looking forward to the opportunity to make a submission, to put what happened from our vantage point in the proper context," De Klerk told a television interviewer.

"Part of that will also be to accept overall responsibility for many things that went wrong."

The commission began in Cape Town yesterday to hear submissions from political parties on their views of the apartheid era. The first party to appear was the rightwing Freedom Front led by General

Constand Viljoen, a former head of the South African Defence Force.

"I will attempt to deal with the whole era in various sub-divisions, right from 1948," De Klerk said. "I will actually start in 1652."

That was the year in which the first white settler, the Dutchman Jan van Riebeeck, arrived at the Cape.

The Freedom Front yesterday called for the amnesty cut-off date to be extended not only to Afrikaners but to other groups as well.

The "arbitrarily-set" cut-off date of December 5 1993 for granting amnesty for gross human rights violations should be revised urgently, the party told the Truth Commission in Cape Town.

The Freedom Front, represented by its leader Viljoen, MP Mr Corne Mulder and Senator Tienie

Groenewald, was the first political party to testify.

Introducing his party's submission, Viljoen said it was unfair for "operators" to be exposed as the chief perpetrators of atrocities and violence, while the politicians and strategy managers hid behind their status and positions.

"The iniquity of our past was of a political nature first and mainly in that way a moral problem on an individual level," he said.

Viljoen said Afrikaners had made a "grave mistake" by allowing their political leaders - the NP in particular - to ignore the need for a timely settlement with other South Africans.

"So we have taken collective responsibility for the situation that developed," he said.

● See Page 4

Nats lied to House on border raids, says DP

Party recalls how opposition was manipulated in propaganda war

INFORMATION supplied in parliament by the National Party about its cross-border raids on liberation movement bases in neighbouring countries had been "patently inaccurate, if not deliberately untruthful", and the NP had led "blatantly" about the army's incursion into Angola.

This claim was part of the submission of the Democratic Party and its predecessors - the Progressive Party (PP), Progressive Reform Party (PRP) and the Progressive Federal Party (PFP) - to the Truth Commission in Cape Town yesterday.

This week, the commission's hearing evidence from political parties to help it formulate a framework for judging whether acts of violence and human rights abuses were committed with a political motive.

This is one of the requirements for perpetrators to be granted amnesty. The DP's submission was made jointly by party leader Tony Leon, executive director James Seife, veteran member and former MP Helen Suzman, and MP and former leader Colin Eglin.

The DP said its participation in parliament had entailed "costs and limits", and these had included its obligation to accept that information supplied to it by the NP government was truthful.

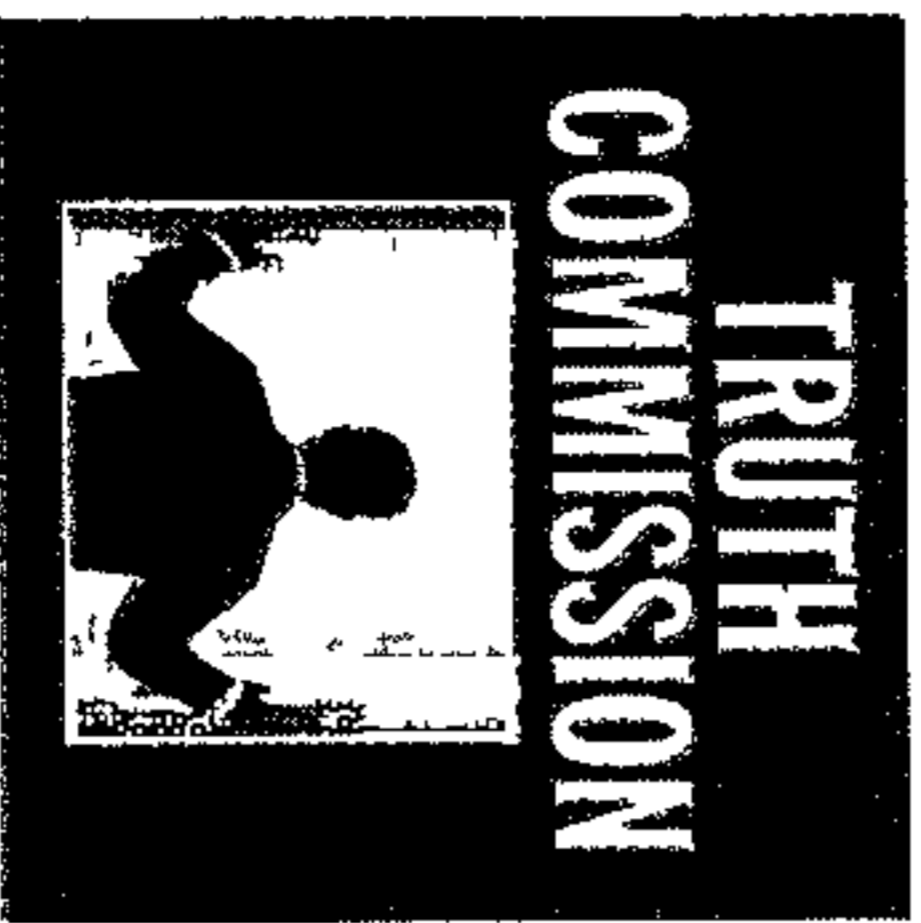
"On occasions, and more frequently as the sense of siege deepened, subsequent information proved to be false."

This had included the time when then MP and later PFP leader, Frederick van Zyl Slabbert, had been told in November 1975 that South African troops were not in Angola, whereas at that stage the troops had been within 125km of the capital, Luanda.

In the 1976 no-confidence debate, the then defence minister and later state president, P W Botha, had claimed SA troops were in Angola only to protect refugees, and installa-



OPPOSITION STARS: The Democratic Party team that presented its submissions to the Truth Commission - from left, Senator James Seife, party leader Tony Leon, former MP Helen Suzman and former leader Colin Eglin



JOHN YELD reports

tions at Caluque and Ruacana

"Over the years, information supplied to the PFP - in particular in connection with pre-emptive cross-border raids - was patently inaccurate, if not deliberately untruthful, and our reactions to, or comments on, such raids, in which many people died, were influenced by such false information. That is still a source of regret to us," the DP said.

Mr Leon acknowledged that the party had supported some cross-border raids by the SADF. Mr Eglin said the party had been "uncomfortable" with such raids.

"But time and time again we

said, 'You will not resolve the conflict on this basis.'"

Once the party had realised the extent to which it was being manipulated by the NP government, it had stopped attending briefing sessions and had started sending its own representatives to see for themselves.

This had been done when alleged African National Congress targets near Lusaka, Harare and Gaborone had been bombed by South African military aircraft in May 1986.

For preventing black South Africans from becoming a political majority, "no price, whether it was in the field of government, or of human rights, or of the rule of law, or of human dignity, was too high a price to pay."

Mrs Suzman said there had been criticism from some quarters that the presence of her party had given credibility to the whites-only parliament.

However, she could justify her presence - she was the party's sole MP from 1961 to 1974 - by the amount of information she had been able to obtain and by her use of parliamentary privilege to have this reported outside parliament.

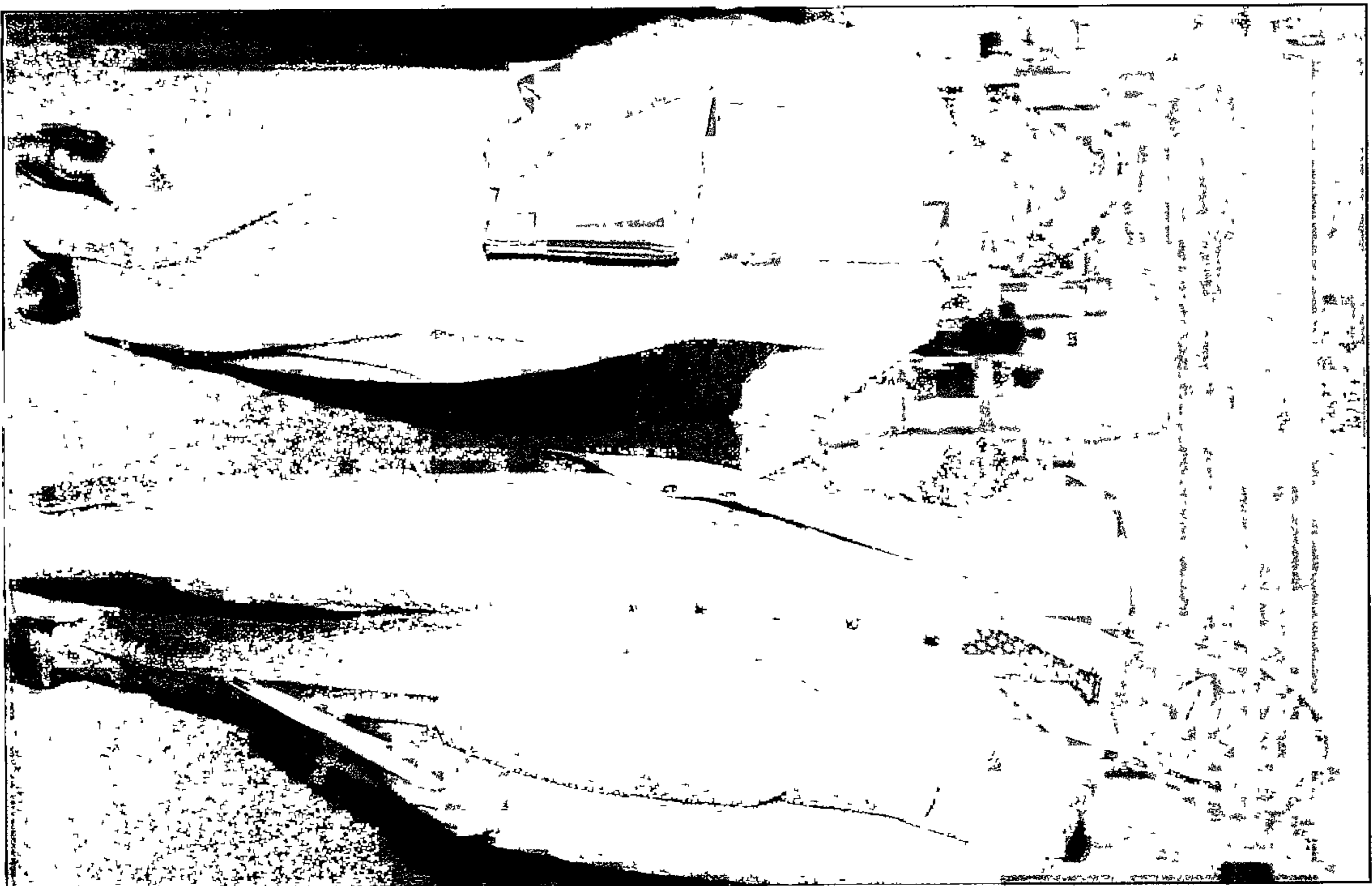
ARG 21/8/96

Emergency rule helped achieve NP objectives

THE successive states of emergency imposed from 1986 had, by 1988, succeeded to a reasonable extent in achieving most of the National Party-led government's objectives, NP leader F W de Klerk said in his submission to the Truth and Reconciliation Commission.

A "more acceptable" level of law, order and security had been restored in most parts of the country, "some degree of normality" had been restored in most black residential areas and there had been a significant contribution to creating a climate in which genuine and workable negotiations could take place.

Most of those who had served in the security forces during the conflict with the "liberation movements" had been "honourable, professional and dedicated" men and women who had been convinced their cause was just, necessary and legitimate, he said.



Pictures LEON MULLER
Chief Photographer: The Argus

Killing of Amy Biehl was wrong

THE policy of the high command of the Azanian People's Liberation Army (APLA) - the armed wing of the Pan Africanist Congress (PAC) - had never been to attack civilian targets, according to PAC president Clarence Makwetu.

Addressing a media conference after the PAC's submission to the Truth Commission yesterday, Mr Makwetu said this policy decision had never been changed.

This was his response to questions about alleged APLA attacks on a restaurant in Queenstown and on St James Church in Kentworth, both of which resulted in civilian deaths, although he refused to comment on these two incidents.

In his main submission to the commission, Mr Makwetu acknowledged that "internally trained" APLA units had "often made errors" in attacks on civilian targets during the 1990s, and that the PAC political leadership accepted responsibility for these.

Asked at the media conference whether he was sorry for these attacks, Mr Makwetu responded: "I think we made it clear (in our submission) we were provoked and we had every right to respond as we did."

"So we don't regret taking up arms."

In the PAC's main submission dealing with its armed struggle, Mr Makwetu said the killing of American student Amy Biehl in Guguletu by members of the Pan Africanist Students Organisation (Paso) had been a mistake and that the PAC had apologised on their behalf.

Ms Biehl had been killed during a strike for recognition by the SA Democratic Teachers' Union in the Western Cape. "They wrongly targeted and killed Amy Biehl," Mr Makwetu said.

P W reused, help De Klerk with Nat evidence

FORMER state president P W Botha declined to help National Party leader F W De Klerk compile the party's submission to the Truth Commission.

But Mr De Klerk told the commission he retained deep respect for the former NP leader - and especially Mr Botha.

"Within the context of their time, circumstances and convictions, they were good and honourable men - although history has subsequently shown that, as far as the policy of apartheid was concerned, they

were deeply mistaken in the course on which they embarked. In particular, I should like to place on record the role played by my predecessor, President P W Botha, in initiating the process of change," Mr De Klerk said.

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ACCT

21/8/96.



Picture ANDREW INGRAM, The Argus

NEVER AGAIN: Anti-Nat. protesters outside the Good Hope Centre before the start of the Truth and Reconciliation hearings today.

FW blames security (252) force rebels ARG 21/8/96 for atrocities

JOHNYELD
on the Truth Commission

FORMER president F W de Klerk has blamed maverick security force elements for apartheid-era atrocities and denied any involvement in them.

Some elements in the security forces had not supported the changes introduced by his National Party government and they had probably been responsible for many unauthorised actions now coming to light, Mr De Klerk told the Truth Commission in Cape Town today.

The NP government had never, to his knowledge, authorised its security forces to commit murder, torture, assassination, rape or assault, the party leader said.

But Mr De Klerk did acknowledge the NP had made many mistakes in the past and said it was "genuinely repentant".

Presenting the NP's submission to the Truth Commission on the third day of its special four-day hearing of political parties, Mr De Klerk said elements in the security forces had accused him and his colleagues of being "soft" and of being traitors.

The unauthorised actions of these elements had probably been directed as much against his government's transformation process as against the liberation movements, he said.

"It has now become clear that certain elements misused state funds and were involved in unauthorised operations leading to abuses and violations of human rights."

While there was "no doubt" that some security force members had acted in bad faith and that this had led to abuses, malpractices and serious violations of human rights, other perpetrators of certain actions had acted in good faith in their interpretation of orders and strategies.

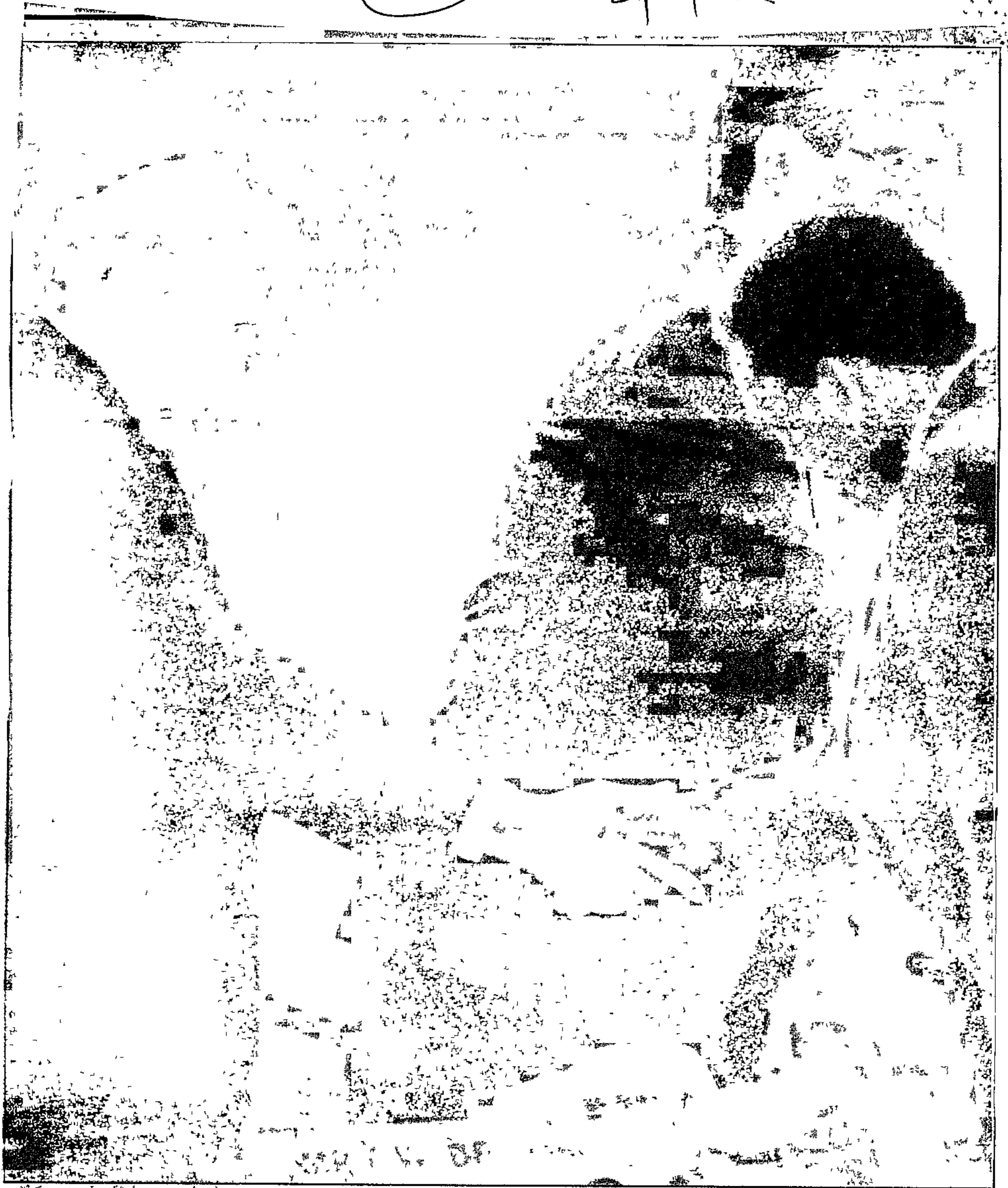
"They believed they were acting correctly and with authority", Mr De Klerk said. In other cases, the bona fides of those involved had been clouded by bad judgment, over-zealousness or negligence.

Mr De Klerk said that, as state president, he had been involved in the "legally required authorisation" for cross-border actions aimed at legitimate military targets on the basis of cross-checked information.

Such authorisation specifically excluded attacks on civilians and limited the use of violence to the minimum required under prevailing circumstances.

● See page 5

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Picture LEON MULLER, Chief Photographer.

WATERED DOWN: National Party leader FW de Klerk knocked over a jug of water before the start of the Truth and Reconciliation hearing at the Good Hope Centre today. He later told the audience he was "taamlik nat" (pretty wet).

Claim for violation of basic rights a first

BO 21/8/96 (252)

Susan Russell

A SEBOKENG factory worker who has sued the police for an assault he claims took place after his arrest in 1994 has also approached the Constitutional Court in a bid to establish the right to claim additional damages for the infringement of his constitutional rights.

Ntandazeli Fose's application will be the first case the Constitutional Court hears when it reconvenes on September 10.

If successful it will also open the way for people who institute damages actions against state organs or their representatives to claim additional damages for acts which might constitute a violation of a fundamental right.

Fose contends that under the interim constitution he is entitled to sue for constitutional damages based on the infringement of his chapter three rights in addition to his ordinary civil claim against the police.

Fose, 33, bases his claim on a provision of the constitution that states that when there has been an infringement or threat to any person's chapter three rights they are entitled to "apply to a competent court of law for appropriate relief".

The factory worker, who claims he was assaulted by Vanderbijlpark police on May 2/3 1994 after his arrest, instituted a civil claim for damages against the safety and security minister for pain and suffering and medical expenses. In addition he instituted a claim for constitutional damages based

on what he said was a violation of a number of his chapter three rights including the right to dignity, right to freedom and security of person, privacy as well as his rights as an arrested or detained person.

When the matter reached the Supreme Court, counsel for the minister objected to the claim on the basis that an action for constitutional damages did not exist in law and that an order for payment would not qualify as "appropriate relief".

Rand Supreme Court judge Rex van Schalkwyk agreed with the SAPS objection to Fose's constitutional claim. The judge held that the present common law "properly adapted where needs be" provided ample scope for Fose's claim against the police.

The question was, however, subsequently referred to the Constitutional Court for a ruling and it will be asked to determine whether the law does indeed now recognise a claim for constitutional damages.

Fose's counsel alleged that it does. According to their written argument the constitution establishes a separate cause of action based on the infringement of a fundamental right.

They argue that the purposes of constitutional laws are fundamentally different from those of the private law of delict which regulates the relationship between private parties and which is used to adjudicate private disputes. A separate cause of action for constitutional damages is a public law action directed against the state, they argue.

Attacks on white civilian targets were errors, PAC tells truth body

Wyndham Hartley

CAPE TOWN — The PAC's political leaders have refused, for fear of reprisals, to tell the truth commission who gave the orders and carried out its military attacks in SA.

PAC president Clarence Makwetu told the truth commission yesterday that former Azanian People's Liberation Army (Apla) high command members Bafana Yose and Muziwendola Mdulu, who were serving in the national intelligence agency and military in-

telligence, died under disturbing circumstances. It was feared that they were killed by "former enemies" while being integrated into the SANDF.

Makwetu said PAC leaders accepted responsibility for attacks on white civilian targets, which were a departure from the organisation's practice of targeting "security structures of the regime". Operations could not all be directed from Dar es Salaam. Many decisions were taken by local commanders. While Apla operatives trained in SA had the advantage of escaping, de-

tection more easily, this meant errors — like attacks on civilian targets — were made.

There were certain incidents he could not refer to because PAC members were "slaying" in jail when others who had committed similar deeds were free, he said, apparently referring to the St James Church massacre and other attacks which fell outside the amnesty cut-off date.

The killing of American student Amy Biehl, popularly blamed on the PAC, was not carried out by the organ-

isation, he said. The Pan African Students' Organisation — members of which had been convicted for the killing — was not part of Apla. It was a mistake, but the killers should still be granted amnesty, he said.

Makwetu, who began his party's submission with a blistering attack on the commission, said the PAC was being forced to share a platform with the perpetrators of apartheid, a crime against humanity that forced African people into war. Hearings for perpetrators of crimes against the people

Truth body

(252)

Continued from Page 11
Pd 2/18/196

commission the detailed records of human rights abuses compiled by his party's monitoring groups during the '80s as a picture of the effects of apartheid and security force action. The party had monitored abuses and interceded on behalf of squatter communities and people faced with forced removal.

DP leaders suggested that the commission investigate the national security management system as the possible source of third force violence. "It was almost certainly involved in sanctioning the organisation and arming of vigilante groups."

The party noted with regret that its role in Parliament as an opposition party, which used privilege in the House to disclose information that was otherwise suppressed, was manipulated by the NP government with regard to cross-border raids.

Meanwhile, Sapa reports that friends of Kevin Woods, Philip Conway, Michael Smith, Barry Bawden and Dennis Beahan, jailed in Zimbabwe for attacking ANC exiles in Harare, have written to Zambabwe's justice minister asking permission for lawyers to visit the men in prison so that they can complete amnesty applications for submission to the commission.

See Page 4
Comment: Page 12

should have been held separately.

The PAC was taking part in the hearings, simply because the truth body had been established. Putting "freedom fighter" and defenders of apartheid" on a par with those who fought for freedom Equating freedom fighters with those who committed crimes against humanity criminalised "the just war of liberation".

DP leader Tony L. ...
Continued on Page 2

Doubts voiced on truth commission

(252) 80 21/8/96

Business Day Reporter

SIX out of 10 South Africans are sceptical about the benefits of the Truth and Reconciliation Commission and think it could make feelings between the races worse rather than better in the short term.

This was one finding in a Market Research Africa survey of attitudes to the commission, conducted exclusively for Business Day in May as part of MRA's regular Multibus survey.

Interviewers visited 2 507 homes nationwide, posing statements with which respondents could agree or disagree. Those interviewed had a choice of responses — general or strong — and could also choose not to give an opinion one way or the other. This opinion was often taken.

Six in 10 people said that revealing past human rights violations makes people angrier and will create worse feelings between the races than before," says MRA MD Hanna Fourie.

"This view held true whatever the respondent's race, age, language, income group or place of residence.

"It was the only question in the survey which did not set one group at odds with another. It was also the only question to which there were more supporters in the 'strongly agree' category than in the 'agree' group.

However, Fourie says this might be their view of the commission's immediate effect rather than its ultimate im-

fact, since more people (47%) agreed that its activities would enable people to live together more easily in future than disagreed (31%). Whites were far more sceptical of this possibility (52%) than the other race groupings (Indians 35%, coloureds 32% and blacks 21%). Coverage by the survey represented about 92% of SA urban adults.

Live-in domestic workers and mine workers were not surveyed.

Optimists — a majority in all provinces — were most evident in Northern Provinces and Mpumalanga.

When it came to dealing with human rights violators, many people felt there should be no such thing as a free confession.

More respondents (41%) favoured prosecution than the granting of amnesty (36%).

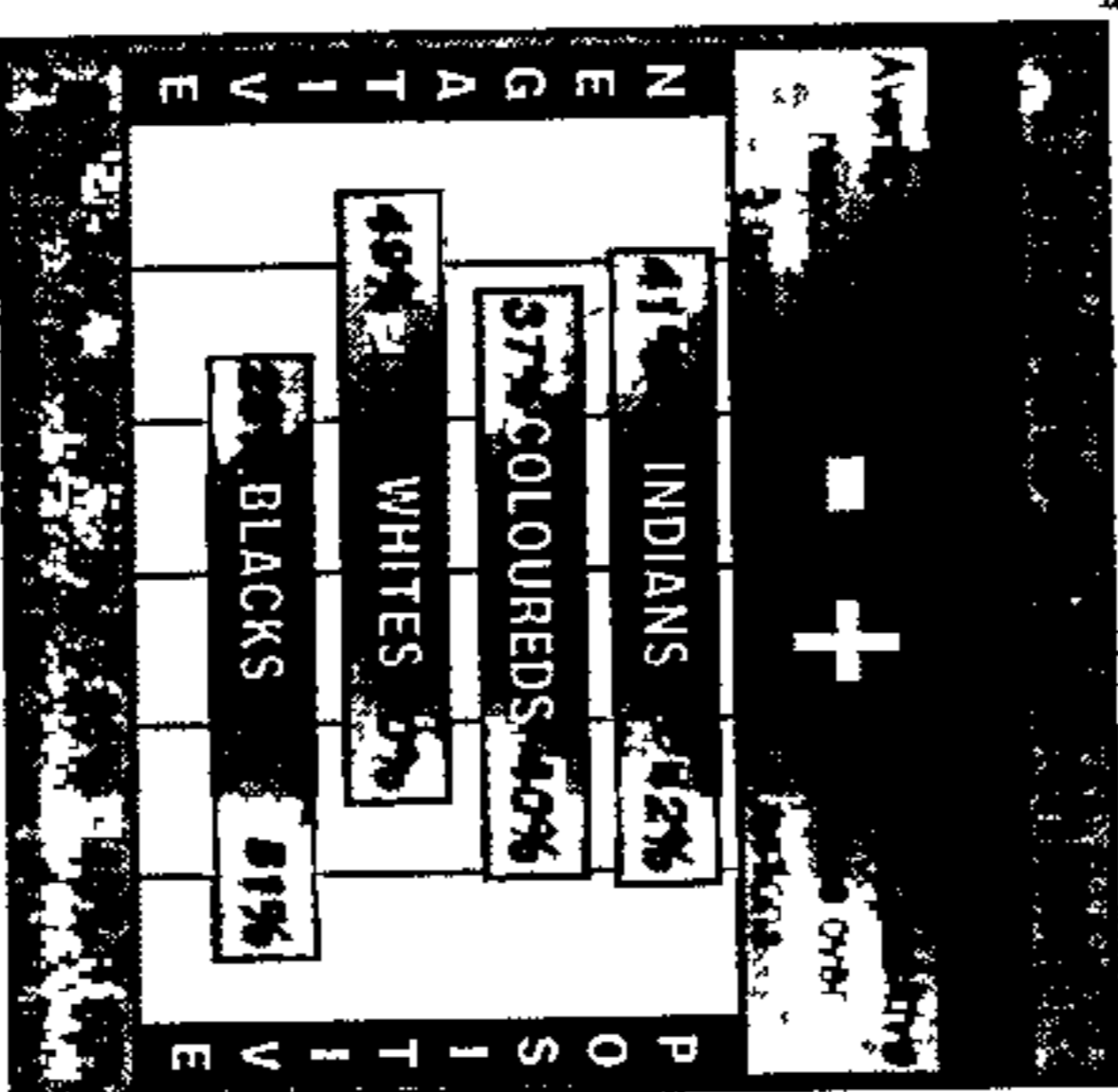
This overall result reflected attitudes in the three most populous provinces — Western Cape, KwaZulu-Natal and Gauteng. In other provinces, including the volatile Eastern Cape, amnesty got more support than prosecution. Pro-amnesty feelings were more

readily held by black people (41%) than by the other groups (29% on average). Confidence that the commission would be fair to all sides and all races was expressed overall by nearly six people in 10. Whites were slightly more doubtful than other groups.

Thirty-eight percent of whites doubted the commission's impartiality while 35% did not, and 28% had no opinion either way.

Across the country, the highest majority of respondents who regarded the commission as fair-dealing was the 71% in the Free State.

Asked if they felt the commission was "the ANC's way of punishing its opponents", four in 10 whites agreed. Those who saw the commission in this light were more numerous in Gauteng (38%), but this was only by a slim margin over the 35% who disagreed. Eastern Cape people dissented to the suggestion particularly strongly (66%). Nationwide, just fewer than three in 10 people regarded the commission as some form of ANC retribu-



tion. Half of the respondents felt the commission should be given more time than its allocated 18 months if necessary. Three in 10, including 57% of whites, said the time limit should be enforced. "Summing up, I would say the commission has the public's blessing to uncover acts committed in the apartheid years," says Fourie. "While it arouses conflicting emotions, these are deemed necessary for long term reconciliation."

"South Africans also want everything revealed and believe the commission should be allowed to continue for as long as necessary.

"The commission has the public's respect and is accepted by the majority as apolitical, fair and objective.

"The results also demonstrate how far out of step whites are with the rest of the population when it comes to supporting the commission.

"Almost certainly this reflects whites' perceptions that it is they — as the architects, champions or beneficiaries of apartheid — who are principally in the dock.

"Considering all the opinions that whites expressed in the survey about the commission, on average 49% were negative while only 30% were positive.

"This contrasts starkly with black respondents' replies: 51% positive and only 28% negative. Coloureds and Indians occupied the middle ground, with roughly 40% on each side of the divide," says Fourie.

TRC told that DP spoke for voiceless

(252)
Sowetan 21/8/96
THE Democratic Party and its predecessors, the Progressive Party and Progressive Federal Party, had used the platform which Parliament provided to hold the government accountable for its actions, it said yesterday.

Presenting the party's submission to the Truth and Reconciliation Commission, DP MP Mr Colin Eglin said the "controversial" decision by the PFP, then led by Dr Frederik van Zyl Slabbert, to participate in the Tricameral Parliament in 1983 had been based on the belief that it was important to show there was white opposition to apartheid.

The party had opposed apartheid legislation, protested against violations of human rights, and called on white South Africans to negotiate with the leaders of all sections of society.

It also used the parliamentary privilege of free speech to publicise views which were not "common currency" at the time.

"This mechanism was used, deliberately, during the 1986 state of emergency to read into the record the names and circumstances of detainees, in that way circumventing the media regulations then in force."

However, Eglin acknowledged that participation in the parliament did have "its costs and limits".

One problem was that the party was obliged to accept that the information supplied to it was truthful.

Dr Van Zyl Slabbert, for instance, was informed during November 1975 that South African troops were not in Angola, whereas they were at that stage within 125km of Luanda" - *Sapa*

PAC asks for TRC probes

Sowetan 21/8/96

(252)

By Waghied Misbach
Political Reporter

THE Pan Africanist Congress has asked the Truth and Reconciliation Commission to investigate the possibility that its founding president Mr Robert Sobukwe was poisoned in prison and his successor Mr Zephania Mothopeng ill-treated in detention

It also asked that the deaths and disappearance of several of its activists over the past 30 years be investigated

Sobukwe was released from Robben Island in February 1978 after 10 years in prison. Mothopeng died of cancer in October 1990 after serving part of a 30-year term

Delivering PAC's submission to the TRC in Cape Town yesterday, party president Mr Clarence Makwetu also asked the commission to investigate who killed Imam Abdullah Haroun while he was in police custody in the Western Cape in 1968

Makwetu asked the TRC to investigate the car accident-related deaths of popular PAC leader Mr Japhta Masemola and PAC secretary of defence Mr Sabelo Phama

Masemola was killed shortly after release from Robben Island in 1988. He had served 27 years. Phama died in Tanzania in February 1994

Makwetu also asked for an investigation into the assassination of PAC

former foreign affairs secretary Mr Selby Ngendane. He told the TRC that the PAC had been blamed for a number of incidents which it did not commit. These included

- The October 1993 attack on the Kokstad police station, where weapons were seized and two constables killed,

- The attack on a Durban mobile police station on January 16 1994,

- The attack and death of American exchange student Amy Biehl by Pan Africanist Students' Organisation members

Makwetu also told the commission the PAC would have preferred a separate platform for perpetrators of apartheid crimes

NP was behind attacks on two police stations?

CT 21/8/96 (252)

THE PAC had been demonised and blamed for acts committed by the previous government, PAC leader Mr Clarence Makwetu told the commission. **ROGER FRIEDMAN** reports.

NATIONAL Party security forces — not Apla — were behind at least two attacks on police stations in the dying days of apartheid, PAC president Mr Clarence Makwetu told the Truth and Reconciliation Commission during his party's submission yesterday.

But Makwetu refused to discuss speculation that an apartheid government hand was behind the attack on St James Church in 1993, saying that as long as PAC members remained imprisoned for committing the offence he felt the mat-

ter remained sub judice. Makwetu told the commission that two policemen were killed in an October 1993 attack on the Kokstad police station and three alleged Apla cadres died in a shootout with police outside a mobile police station in central Durban in January 1994. Neither attack had involved the PAC or Apla.

Senior members of the apartheid police force recently acknowledged responsibility for several violent acts claimed by the National Party government to have been the work of ANC forces. The acts included the bomb blast at a defence force command centre in Joubert Park in 1987, which injured 70 people.

But those attacks mentioned by Makwetu did not feature on their list, and former president Mr F W de Klerk will only address the commission on behalf of the NP today.

While Makwetu said yesterday the PAC was prepared to acknowledge responsibility for its military actions — even that mistakes were made — certain incidents had been perpetrated by the organisation's enemies to besmirch its good name. During the Kokstad attack, weapons were seized and "Apla" was written on the walls and the police station's occurrence book.

"The bodies of the two policemen were dumped in the Transkei, Apla was alleged to be responsible, to be avenging the SADF Umhata raid of October 8 (1993) in which the Mpendulo children were massacred."

"We said then as we say now, Apla had nothing to do with the attack. It was the work of those who had a vested interest in proving Apla had bases in Transkei, such as the killers of the five Mpendulo children. Secondly, the attack on a Durban mobile police station on January 16 1994 was the work of the regime, using a former Apla cadre who had loyally served Apla and the people of Azania for years. He was later compromised and blackmailed by the regime. In this attack he led some young dedicated PAC cadres to their death."



"We denounce the regime for these unnecessary deaths, which occurred hours after the PAC president had announced a cessation of hostilities by Apla," Makwetu said.

Earlier, he gave a historical overview of the PAC and Africanism. The PAC advocated "Africa for the Africans", with anyone owning his or her allegiance to Africa and accepting the democratic rule of an African majority being regarded as African.

"This call for equality and commitment was regarded as anathema by the white supremacists. The media, itself a victim of racial prejudice, simply cited 'Africa for the Africans' and gave a racial connotation to this call," he said.

"We had a legal existence of less than a year. The banning of the PAC allowed the regime and our detractors to distort our aims and objectives. In the period that followed the PAC was demonised and founded and its members and sympathisers persecuted."

WEDNESDAY
★ AUGUST 21, 1996



PAC LEADER Mr. Clarence Makwetu told the Truth Commission yesterday that his party accepted responsibility for its military actions.

FW apologises for the misery of apartheid

(252)

GARY BERNARD

Heritage or artefact ... Professor Phillip Tobias and Adam Kok 5 with the skeleton of Griqua chief Cornelius Kok 2, which was returned yesterday by Wits University's anatomical department to descendants of the Kok family.

Policy caused immeasurable suffering, admits NP leader, as he says sorry to the truth commission.

Star 21/8/96

By ROBERT BRAND
Cape Town

Elements in the security forces tried to derail the transformation process through "unauthorised actions" during his presidency, National Party leader FW de Klerk said at a Truth and Reconciliation Commission hearing today.

Delivering his party's submission to the commission, De Klerk admitted that apartheid had caused "immeasurable pain and suffering to many", accepted responsibility for "unacceptable things" that occurred during his rule, and apologised.

He admitted that his cabinet had authorised "unconventional strategies" to combat what it perceived as a "total onslaught" orchestrated by the SA Communist Party, but denied that these methods included gross violations of human rights such as murder, tor-

ture, rape (or) assault".

De Klerk made the submission on behalf of the NP, as leader of the NP and as former state president. In preparing the submission, he said, he had enlisted the help of the retired leadership of the SA Defence Force and SAP, as well as former members of the government.

Ex-president P W Botha had been approached to co-operate but had refused, De Klerk said.

He did not give details of specific incidents. This would be done in a later submission by the former leadership of the security forces, he said.

Sketching the historical background of his party's years in government, De Klerk said a clear distinction should be drawn between the NP of old and the "new" NP. The process of transformation, he said, started under P W Botha and continued under his leadership.

"In my opinion it is quite in-

correct to refer to our administrations as the 'apartheid government'. We were primarily concerned with the dismantling of apartheid, the defence of our country against revolution and the search for workable democratic alternatives."

De Klerk said it had become clear by the middle 80s that the policy of separate development had failed.

"Instead of providing a just and workable solution, it had led to hardship, suffering and humiliation."

To fight the perceived "communist threat" spearheaded by the ANC and the SACP, the government had instituted the National Management System to coordinate the government's response.

Far-reaching security legislation and a national State of Emer-

► To Page 2

FW apologises for apartheid misery

From Page 1

(252)

gency were instituted. Thus, De Klerk conceded, "created circumstances and an atmosphere conducive to many of the abuses and transgressions against human rights which form the basis of the commission's investigation".

There was a perceived need for "unconventional counter-strategies" which had to be planned on a "need-to-know" basis. However, De Klerk said, he had never been part of any decision taken in cabinet, the state security council or any other committee authorising gross violation of human rights.

He admitted, however, that he had authorised cross-border raids "aimed at legitimate military targets" which specifically excluded civilians.

Elements in the security forces were opposed to his process of transformation and actively tried to derail the process, he said.

"It has now become clear that certain elements misused State funds, and were involved in unauthorised operations leading to abuses and violations of human rights."

As political leader, De Klerk said, he accepted responsibility for "the things that went wrong".

He expressed his "deepest sympathy" with people who suffered during the conflict and "reiterated" his apologies for the "pain and suffering caused by former policies of the NP".

Star 21/8/96

ANC plan to bomb PW

JOHN YELD
on the Truth Commission

Risk to civilians stopped us, says Mbeki
AR 22/18/96 (252)

A PLAN to obliterate state president P W Botha and his apartheid cabinet with a car bomb at the 1981 Republic Day celebrations in Bloemfontein, was rejected by African National Congress leaders because of the risk to civilian life.

This was revealed by Deputy President Thabo Mbeki at the Truth Commission in Cape Town today.

Mr Mbeki was leading an ANC delegation which made submissions to the commission on the last day of its special four-day hearing for political parties.

He said ANC reconnaissance units had been asked to identify potential targets to register rejection of the 20th anniversary of "the racist republic".

"One of our units had studied the government's programme for the occasion and reported that a mass celebration was to be held at Bloemfontein in which P W Botha and his entire cabinet would be present."

Sketches of the venue and details on where a car bomb could be placed to blow up the National Party's leadership were drawn up.

The operation had needed only the go-ahead from the national leadership, the statement said.

"What could have been the most dramatic operation ever, reinforcing the mass upsurge at the time and weakening the apartheid ruling structure, was set aside after much debate."

The ANC leadership had concluded that there would be too many civilian casualties, and that the obliteration of the NP cabinet could "start to blur the distinction between legitimate and illegitimate targets", the submission said.

"This restrained approach contrasts sharply with the attitude of the regime itself, which considered all members of the

ANC, whether they were MK cadres or not, inside and outside the country, as fair game, which tried on many occasions to assassinate Oliver Tambo, Chris Hani and other leaders, which had killed diplomatic chief representatives of the ANC and bombed their offices."

It had been official ANC policy to avoid "unnecessary" loss of life and the organisation had never permitted random attacks on civilian targets, Mr Mbeki said.

But, he acknowledged that there had been "errors" and that Umkhonto we Sizwe (MK) operatives had attacked several civilian targets, with no connection with the state, from around December 1985 - and particularly during the period April 1986 to September 1988.

"With regard to those attacks on 'soft targets' for which MK personnel were responsible, the ANC does not seek to justify

such attacks, but insists that the context in which they occurred is relevant. The ANC has acknowledged that in a number of instances breaches in policy did occur, and deeply regrets civilian casualties."

Mr Mbeki's claim was clarified in the ANC's written submission, the last of its kind at the four-day hearings for political parties.

Referring to the "People's War", Mr Mbeki said the tension between the intensification of the armed struggle from 1979 onwards and the need to avoid a racial war had remained with the movement until the last day of the armed struggle, including the debate on the proposed Bloemfontein bomb.

The Kabwe Conference in 1985 had reaffirmed ANC policy on targets considered legitimate, "But the risk of civilians being caught in the crossfire when such opera-

tions took place could no longer be allowed to prevent the urgently needed all-round intensification of the armed struggle."

In late 1987, MK commanders had been sent by ANC president Oliver Tambo and the national executive committee to go to all "forward areas" and as far as possible meet MK units operating within South Africa, to reassess ANC policy on the avoidance of purely civilian targets.

Referring to the 1983 car bomb attack on SA Air Force headquarters in Pretoria, Mr Mbeki said that although many of the more than 200 injured might not have been military officers, they had been employed by the air force "and had therefore directly associated themselves with apartheid military aggression." Eleven of the 19 dead had been SAAR officers.

The car bomb explosion at the neighbouring Magoo's and Why Not bars in Durban in June 1986 had been another instance in which civilian casualties had occurred within the context of the intensification of the armed struggle, Mr Mbeki said.

De Klerk denies cover-up of hit squad activities

(252) ARG 22/8/96

JOHN YELD
Staff Reporter

NATIONAL PARTY leader and former state president F W de Klerk denies that his government was ever involved in covering-up hit squad activities

Mr De Klerk said at a media conference after his submission on behalf of the NP to the Truth Commission in Cape Town yesterday that he had not known about any assassinations, and that he would have "totally disassociated" himself from any such orders

"I was at no stage aware of a unit carrying out assassinations. I was never part of any decision to assassinate or murder," he said

He also denied knowledge about letter bombs

"I've never seen a proposal that a letter bomb should be sent to anybody"

He would not have sanctioned such a proposal because obviously there's a risk somebody might be hurt"

Asked to detail the "dirtiest tricks" he had been involved in, Mr De Klerk said he had been party to decisions to use informers, penetrate networks, pay for information and finance counter-strategies - including certain trade union movements - "and the like"

Asked who would have been responsible for all the atrocities that had been committed, Mr De Klerk conceded that the atmosphere at the time had been "conducive to abuses"

But he added "Abuses occur throughout the world. They happen in each and every police force across the world"

"It's wrong and I'm not justifying it, but South Africa is not unique. I can't condone it, but I can understand some people were over-zealous"

His government's overall policy had been that abuses should not occur

"Even in war, there are rules that should be adhered to"



Picture LEON MULLER, Chief Photographer, The Argus

PARTY HIERARCHY: National Party leader FW de Klerk, flanked by senior colleagues Patrick McKenzie, left, and Leon Wessels, fields questions during a media conference after making his submission to the Truth and Reconciliation Commission hearing in the Good Hope Centre



Responding to a suggestion that his government had not acted against mounting evidence of "Third Force" activities after 1989, when he had taken office, Mr De Klerk said the Civil Co-operation Bureau

(CCB) of Military Intelligence had been closed down immediately he had been informed about it, and the police's Vlakplaas base had also been disbanded "at a certain stage"

"A government can only act on the information it gets. It was a problem, and we didn't do nothing about it. We never covered up. Each and every time substantial allegations were investigated"

Referring to the shredding of state security documents, Mr De Klerk said that "in all probability" some documents had been destroyed

However, his government's policy had been that archives

legislation had to be complied with, "and to the best of my knowledge this was done"

"We were not part of any organised plan to destroy evidence whatsoever"

Mr De Klerk was also asked whether it was fair to conclude from the NP's submission to the Truth Commission that his government had turned its back on its security chiefs, and that the generals were being left to answer the "hard" questions

In response, he said his cabinet took responsibility for policy and "for all reasonable interpretations thereof"

The State Security Council

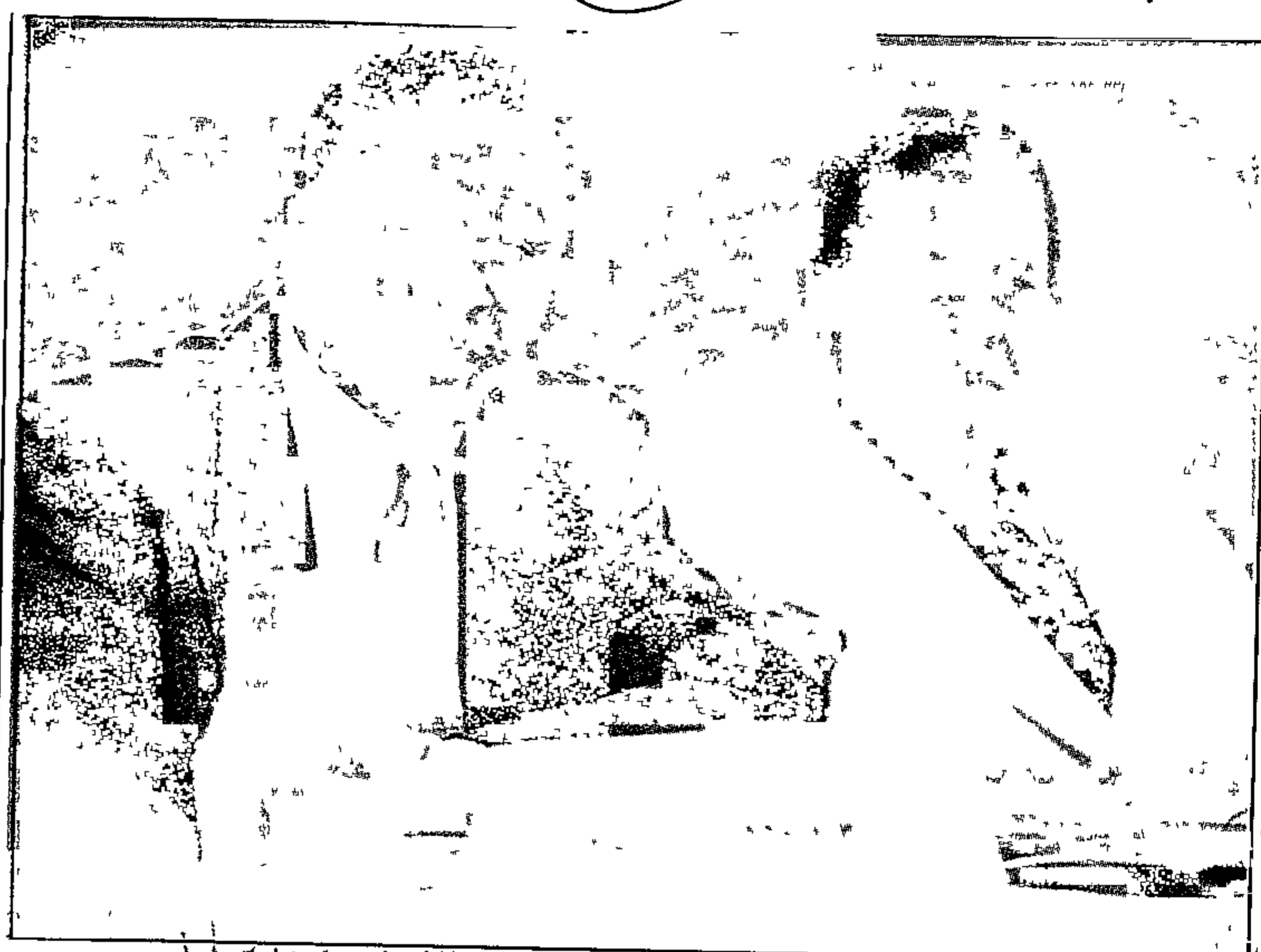
had been "a team together", but had not been responsible for all decisions, some of which had been taken by individual cabinet ministers and others by senior officials

"It's unfair to hold a person accountable if that person was not involved in that decision that's an elementary principle of justice" Although he had held many rounds of discussions with such people as former police chief General Johan van der Merwe and former generals in the SA Defence Force, the NP had not been "in cahoots" with them in drawing up its submission

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ALG

22/8/96



Picture LEON MÜLLER, Chief Photographer, The Argus

HARD TRUTH: Deputy President Thabo Mbeki acknowledges at the Truth Commission that the African National Congress made some mistakes in attacking soft targets. On his left is ANC veteran Gertrude Shope

Mbeki names 34 executed at camps

JOHN YELD
Staff Reporter

IN an appendix to its submission to the Truth Commission today, the ANC lists the names of 34 people who were executed under orders of its military tribunal in Angola

Some of them were executed for mutiny, while others were sentenced to death for raping and murdering local villagers

Deputy-President Thabo Mbeki said the ANC had set up a fully-fledged security department in 1969 and acknowledged that it had committed "excesses", although the ANC believed the organisation as a whole had conducted itself well. Excesses were detailed in the Motsuenyane and Skweyiya reports

"The ANC highly regrets the excesses that occurred. Further, we do acknowledge that the real threat we faced and the difficult conditions under which we had to operate led to a drift in accountability and control away from the established norms, resulting in situations in which some individuals within the security department started to behave as a law unto themselves"

Referring to Camp 32 in Angola - the Quatro detention camp - Mr Mbeki said conditions in this camp had been graphically illustrated in the Motsuenyane and Skweyiya commissions' reports

"We emphasise that none of such violations arose out of official policy or were in any case sanctioned by the leadership"

High-powered ANC team at hearing

JOSEPH ARANES
Staff Reporter

DEPUTY President Thabo Mbeki led a high-powered African National Congress delegation to the Truth Commission's hearings at the Good Hope Centre, where he handed the party's submission to TRC chairman Desmond Tutu.

Archbishop Tutu said the TRC, which so far had heard stories chiefly from ordinary people, was entering a new phase

"Now we have these hearings where institutions and political parties can make their submissions and place the events of the past in a political framework and contextualise their actions"

Flanked by ANC stalwarts Walter Sisulu and Gertrude Shope, Mr Mbeki said the ANC respected the independence of the TRC and the integrity of the commissioners and would strive to ensure that the public shared this perspective.

A number of cabinet ministers, MPs, provincial premiers and ministers, and senior party officials, were present to support Mr Mbeki

"I am privileged to lead this high-level delegation to the hearings. By its composition, it clearly shows the high esteem we hold for the TRC and the work it is engaged in"

"As an organisation, the ANC decided against Nuremberg-style tribunals and against the notion of forgiving and forgetting without uncovering the truth of the past. We opted for an approach that will help the country embark on a smooth transition from apartheid to our new democracy"

NP accepts responsibility for 'authorised' abuses

BD 22/8/96 (252)

Wyndham Hartley

CAPE TOWN — NP leader and former SA president FW de Klerk has accepted responsibility for all authorised abuses of human rights under apartheid and tendered an unequivocal and "genuine" apology for the suffering NP policies had caused.

However, De Klerk, delivering the NP's submission to the special hearing of the truth commission, said he had never taken part in or known of any government-sanctioned assassination, murder, torture, rape or other abuse. He also warned that reparation for victims and amnesty for perpetrators was the key to reconciliation. Any attempt to apply stricter rules for amnesty than those applied while he was president would result in injustice, he said. He had, in the interests of reconciliation, been forced to pardon ANC members guilty of serious crimes, and others should now enjoy the same rules.

Clearly acknowledging security

force abuses, he said the states of emergency and the need to develop unconventional tactics to combat "revolutionary forces" had "created an atmosphere conducive to human rights abuses". It had emerged that a small grouping in the security forces, which had labelled him "soft" and "a traitor", had committed many abuses that were now coming to light. These were directed as much against the transformation process as they were against the "revolutionary threat".

"It has become clear that certain elements misused state funds and were involved in unauthorised operations leading to abuses and violation of human rights," he said in apparent reference to the so-called third force.

Security force members' abuses were also a result of members trying to give "operational interpretation to broadly framed decisions", he said, adding that clear distinctions had to be

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De Klerk

Continued from Page 1

drawn between varying situations.

There were acts where members thought they were acting correctly and with authority; others were bona fide actions were "clouded by bad judgment and overzealousness"; and cases which involved evil intent. He would accept responsibility for the first two categories, but not the third.

Declaring that it was not his intention to gloss over the many unacceptable things that happened during NP rule, De Klerk said: "They happened

and caused immeasurable pain and suffering to many. This is starkly illustrated by the evidence placed before the commission at its hearings across the country. Many of the accounts by witnesses are deeply moving.

"I, and other leading figures, have already publicly apologised for the pain and suffering caused by former policies of the NP and I reiterate those apologies today," he said, adding that "by the 80s it was clear that the separate development policy had failed".

Commission chairman Desmond Tutu and his deputy, Alex Boraine, thanked De Klerk for his apology, saying that the power of "saying sorry" should not be underestimated.

ANC admits killing 'spies' and mutineers

From Page 1
realising new dangers and faced with agents who refused to reveal strategic information although confronted with convincing incriminating evidence, excesses were committed"

The sources said Mbeki would reveal that some of those arrested were falsely implicated and had shown signs of ill discipline, rather than being agents

He will also outline the threat faced by the ANC in exile and the difficult conditions under which the leadership operated, and how this had led to a drift in accountability and control away

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from established norms

This had resulted in some individuals within the organisation's security department starting to behave as a law unto themselves

He would also give an account of events which led to the execution of seven mutineers at a camp in Pango, Angola, and disclose that several other soldiers were executed after they were tried and convicted of raping and murdering local villagers

He would also set out the circumstances that led to the formation of people's committees and self-defence units in SA and

how these were infiltrated by agents

Regarding MK operations in SA, Mbeki was expected to acknowledge that mistakes, such as the bombings of the SA Air Force headquarters and the Magoo's and Why Not bars, did occur

Mbeki was also expected to outline the ANC position, pioneered by the late Oliver Tambo, that civilian targets should be avoided

As an example, he would disclose how a mission to decimate the NP leadership at a rally was aborted at the behest of the leadership

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De Klerk's apology draws parties' criticism

Star 22/8/96

From the SACP to Azapo, IFP and DP, the former president's submission to the TRC has brought anger and condemnation

BY DAISY JONES

National Party leader and former state president F W de Klerk's apology for the "pain and suffering caused by former policies of the NP" has drawn harsh criticism from his political opponents

De Klerk apologised to the nation during his submission to the Truth and Reconciliation Commission in Cape Town yesterday

SA Communist Party deputy general secretary Jeremy Cronin told The Star yesterday that De Klerk's apology was "less than complete or satisfactory". A "clear and deliberate", very dirty, so-called low-intensity conflict strategy had been "unleashed" on South Africans in the townships, at schools and on campuses, and it was not just cross-border raids which had been sanctioned by the Nationalist government

"At the highest level, a great deal of this was approved. He (De Klerk) did know more than he has admitted to," said Cronin

DP leader Tony Leon said De Klerk's statement "deals more in shadows than substance"

The NP's admissions had been made in the "vaguest and most limited" way, and De Klerk had distanced himself and his party from apartheid crimes, Leon asserted

In reality, the NP had "rammed through Parliament legislation and administrative measures that allowed this situation to occur", he said. He was referring to what De Klerk had termed as "unauthorised actions" during his presidency

Azanian People's Organisation spokesman Pandelani Nefolovhodwe said De Klerk's apology was "another way of dodging the issue"

Though he might not have authorised all the actions of his officers while president, "he had the power to stop the deaths of many people", Azapo said

Walter Felgate, speaking on behalf of the IFP, said that whether gross violations of human rights during the

apartheid era had been authorised by the government or not, acts which had taken place with a great deal of impunity had been known about, and had continued "They can't wash their hands of some things and not others," he said. Apartheid was a "monster" and "those who created, upheld and developed it must accept liability"

Pieter Aucamp, for the Conservative Party, said De Klerk had effectively apologised for apartheid. He said the threat of a "total onslaught" orchestrated by the SACP might have been "perceived" by the NP during the apartheid years, but the CP believed communism had been a very real threat, and still was

ANC spokesman Ronnie Mamoepa was unable to comment at the time of going to press

Commission deputy chairman Alex Boraine yesterday thanked De Klerk for his apology, saying "I don't think anyone should underestimate the power of a leader, a former state president, publicly saying he is sorry"

Insufficient evidence to prove bank collusion

Star 22/8/96 (252) (58)

Cape Town - There was insufficient evidence to conclude that major commercial banks were guilty of collusion when they raised their interest rates by 1% on May 17, a parliamentary probe has found

The investigation, carried out by a sub-committee of the trade and industry committee and representatives of the finance and housing committees, was called after allegations arose that the banks had violated the Competition Act of 1990

by raising their rates simultaneously

The committee recommended that Parliament agree to the sub-committee continuing to oversee the issues under examination until the Competition Board was fully empowered, and competition policy in place

However the sub-committee was unable to comply with a request from the Council of SA Banks that it find "the banks did not act in collusion in raising their prime rate"

It accepted that conditions in the capital markets were causing difficulties for the banks

"What is more difficult to understand is why they could find no other way to meet the situation and why they all had to raise their rates by the same amount at the same time, given that their cost structures are different"

Other recommendations made by the trade committee included that new legislation on competition policy be drawn up urgently - Sapa

(iii) Remuneration package	R1 009,02 per day consisting of • A salary of R160 115,40 p a, which includes a service bonus • An allowance of R7 846,56 p m comprising of the following components	R2 722,67 R 546,00 R 22,39 R4 555,50
(2) (a) Housing allowance	No	
(b) Business class travel	Yes, as for a Chief Director*	
(c) Home telephone	No	
(d) (i) Overseas travel	Yes, as for a Chief Director*	
(ii) Overseas accommodation	R 4 555,50 per month, included in monthly allowance	
(e) Car allowance	No	
(f) Entertainment allowance	No	
(g) Other fringe benefits	No	
(1) (i) (aa) Name	Jan Harm Fouche	
(bb) Qualifications	National Diploma in Public Administration Consultant for the Forum on Procurement Consultant on Counter Trade	
(ii) Purpose	12 months reckoned from 1 September 1995 R614,81 per day consisting of • A salary of R113 015,50 p a, which includes a service bonus • An allowance of R3 390,64 p m comprising of the following components	R 781,00 R1 911,50 R 546,00 R 152,14
(iii) Remuneration package	R781, included in monthly allowance	
(2) (a) Housing allowance	No	
(b) Business class travel	Yes, as for a Deputy Director*	
(c) Home telephone	No	
(d) (i) Overseas travel	Yes, as for a Deputy Director*	
(ii) Overseas accommodation	No	
(e) Car allowance	No	
(f) Entertainment allowance	No	
(g) Other fringe benefits	No	
(1) (i) (aa) Name	Jacobus Cornelius Welgemoed	
(bb) Qualifications	BSc MSc PhD Chemistry Administration of the Non-proliferation of Weapons of Mass Destruction Act, 1993 1 March 1995 to 31 August 1996	
(ii) Purpose	R633,68 per day consisting of • A salary of R121 095,76 p a, which includes a service bonus • An allowance of R3 216,02 p m comprising of the following components	R 781,00 R1 685,79 R 546,00 R 203,23
(iii) Remuneration package	Housing subsidy Pension fund Medical fund Stabilisation fund	
(2) (a) Housing allowance	No	
(b) Business class travel	No	
(c) Home telephone	No	

(d)(i) Overseas travel	Yes, as for a Deputy Director*
(ii) Overseas accommodation	Yes, as for a Deputy Director
(e) Car allowance	No
Entertainment allowance	No
(g) Other fringe benefits	No
(1) (i) (aa) Name	Hendrik Jozeves Dekker
(bb) Qualifications	B Com B Com Hons MBA D Com
(ii) Purpose	Investigation Officer according to section 7 of the Harmful Business Practices Act, 1988 17 May 1995 to 16 May 1997 R1 23,00 per hour, all inclusive
(2) (a) Housing allowance	No
(b) Business class travel	Yes, as for a Chief Director*
(c) Home telephone	No
(d) (i) Overseas travel	Yes, as for a Chief Director*
(ii) Overseas accommodation	No
(e) Car allowance	No
(f) Entertainment allowance	No
(g) Other fringe benefits	No
(3) No	No

Note *The Department of Trade and Industry's policy (as a contribution to belt tightening) is for all officials—Director-General and below—to travel in Economy Class in domestic flights. For long-haul international flights, officials who are eligible to travel in higher classes travel in Business Class only if they are flying straight into meetings immediately after arrival.

(1) (a) Chairperson	R292 200
(ii) Vice-chairperson	R287 500
(iii) Other members	R285 500
(b) (i) to (ii) In addition to their basic salary, Commissioners receive a non-taxable allowance of R3 500 per annum 70% of their medical and contribution are also payable by the Commission. They are also entitled to utilise a motor vehicle of their choice in line with the regulations laid down for judges.	

523 Mr J W MARBE asked the Minister of Justice

(1) Whether he will disclose what the (a) salaries and (b) other allowances payable to the (i) chairperson, (ii) vice-chairperson and (iii) other members of the Truth and Reconciliation Commission are, if not, why not, if so, what are the relevant details in each case,

(2) what amount is budgeted annually for rental payment for the offices of this Commission?

The MINISTER OF JUSTICE	
Yes, the following information was obtained from the Financial Director of the Truth and Reconciliation Commission	
	N886E
(2) The amounts budgeted for rentals are as follows	
Cape Town offices	R1 980 000 per annum
East London offices	R 420 000 per annum
Durban offices	R 624 000 per annum
Johannesburg offices	R 780 000 per annum

Handwritten signature: HANSARD