

Public Sector - Govt. - Justice

1997

SEPTEMBER

current [Govt]
 and [Govt] / [Govt].
 Foreign govt / Govt.

particular 2 [Govt]

letter 3 [Govt]. [Govt]

Amnesty cut-off is 30th

(252)

ARG 1/9/97

JOHN YELD

ON THE TRUTH COMMISSION

The final cut-off date for amnesty applications to the Truth Commission for gross human rights violations is September 30

This was to be announced by the commission at a media conference this afternoon, and follows

Parliament's approval last week of the Constitution of the Republic of South Africa Amendment Act

The constitutional amendment, promulgated in the Government Gazette on Friday, provides for the extension of the cut-off date for offences for which amnesty can be granted from December 6 1993 to May 10 1994

Truth body warns MP on refusal to obey subpoena

Farouk Choithia

DURBAN — The truth commission warned yesterday that it would file criminal charges against Inkatha Freedom Party (IFP) KwaZulu-Natal MP Philip Powell if he failed to appear before the body on September 29.

The commission had served a subpoena on Powell on Friday to appear at a closed-door hearing. The commission wanted to question him on claims by former SA Police hit squad commander Eugene de Dock that

he had supplied Powell, a former IFP paramilitary instructor, with weapons, commissioner Richard Lyster said.

However, Powell said he would not "grovel" before the commission. It would be "dishonest" for him to do so as he had consistently been opposed to the commission.

Lyster said the commission hoped that Powell would reconsider his position in the next few weeks. If he failed to appear at the hearing, the commission would give a statement to police and KwaZulu-Natal attorney-general Tim McNally would have to de-

cide whether to prosecute Powell

The commission believed Powell would be in "contempt of the commission". He risked a "very stiff fine" in terms of the Promotion of National Unity and Reconciliation Act, Lyster said.

Powell said he was aware that he even risked imprisonment. The commission would have to decide whether it wanted to charge an MP whose opposition to the body was a "matter of conscience".

Powell said the commission had contravened the act by first informing the media

BD 1/9/97

he was to be subpoenaed. He had learnt of the subpoena from a journalist, and his lawyer then contacted the commission.

This showed that the commission had a "political agenda" and it wanted to "victimize" him, Powell said.

The commission later faxed the subpoena to his lawyer, and tried to hand a photocopy to him in Maritzburg. He refused to sign it, Powell said.

The Sunday Independent reported that IFP leader Mangosuthu Buthelezi backed Powell's decision to defy the subpoena, and

252
said he would do likewise if one was served on him.

Lyster said there was no plan to subpoena Buthelezi, or any other MP. Subpoenas were served for information-gathering purposes. Buthelezi had made an earlier submission to the commission.

Legal representatives of other IFP leaders — such as KwaZulu-Natal welfare MEC Gideon Zulu and national MP Lindwe Mbuyazi — had dealt with claims against them at a recent public hearing in Durban, Lyster said.

TRC's call to charge CCB men

(252)

ARG 2/9/97

JOHN YELD
ON THE TRUTH COMMISSION

The Truth Commission has formally asked Western Cape Attorney General Frank Kahn to charge three former Civil Co-operation Bureau (CCB) members for refusing to testify at in-camera inquiries.

The three - former CCB managing director Joe Verster and two members of CCB Region Six, Abram "Slang" van Zyl and Wouter Basson (alias Christo Brits) - were subpoenaed to appear at separate inquiries by Truth Commission investigators between August 18 and 22.

The head of the commission's investigative unit, Dumisa Ntsebeza, said he had told Mr Kahn in a letter that the three CCB men had applied to him, as chairman of the inquiries, to rule that they were entitled to refuse to answer some questions.

They had done this on the basis that they might incriminate themselves, notably with regard to activities in foreign countries like Botswana and Angola.

Mr Verster and Mr Basson, in particular, had persisted in their refusal to testify, Mr Ntsebeza said.

"I found that the commission had met all its obligations in terms of the act and ruled that any refusal to answer questions was a contravention of our act. I am of the view that they committed an offence and I am formally laying a charge."

Copies of transcripts of the inquiries involving Mr Verster and Mr Basson were handed to Mr Kahn's office today, and those relating to Mr Van Zyl were due to follow "in due course", Mr Ntsebeza added.

If convicted, the former CCB men could face sentences of two years in jail or a fine, or both.

Leak sparks strike at court

(252)

~~(190)~~ ARG 2/9/97

Court proceedings in Kuils River were delayed when angry police court orderlies stopped work for three hours in protest against poor working conditions

Joseph Manuel, South African Police Union shop steward at Kuils River police station, said members had been promised by management

that work would start work yesterday on an office that leaked in wet weather. The orderlies were also unhappy about a toilet inside the office

Public Works Department officials Cedric Carstens and Mustakim Gerden were called to a meeting with police. It was agreed upgrading would begin on Thursday - Staff Reporter

(252)

TRC death threats

ARG 2/9/97

spark security alert

Boraine fears far-right plot

JOHN YELD
ON THE TRUTH COMMISSION

Security has been stepped up for Truth Commission acting chairman Alex Boraine after a series of abusive calls and death threats from right-wingers

Dr Boraine told a media conference yesterday that he had received "25 to 30 very abusive, very threatening calls" on his cellphone during the past week

"This is clearly a co-ordinated campaign from the far right. It is an attempt to intimidate and harass - they will not succeed in that," he said

The calls were from Afrikaans-

speaking people, although some had been delivered in English

Some callers referred to the amnesty application by Clive Derby-Lewis and Janusz Walus for the murder of Chris Hanu, and others were along the lines of "We have dealt with people like you before", Dr Boraine said

One "particularly nasty" message said "You kaffir, Boraine, we hope you die of cancer like that other kaffir, Tutu"

It was referring to Truth Commission chairman Archbishop Tutu, who is having treatment for prostate cancer in the United States and is due back towards the middle of this month

Dr Boraine said the commis-

sion had been strongly criticised by a wide range of people and organisations, and he didn't normally take threats too seriously

"There have been a number of (threatening) calls and letters, but this seems to have been a much more well-organised campaign. It is tragic that this mood persists in this country"

Police had taken a statement and were investigating, and his personal security was being stepped up on their advice

■ Dr Boraine said there was "no doubt" the TRC would lay charges against Inkatha regional MP Philip Powell if he refused to answer questions at a closed hearing, as he had indicated

Boraine gets phone death threats

(252) et 2/9/97
POLICE have stepped up security around acting Truth and Reconciliation Commission chairman Dr Alex Boraine after he received a spate of life-threatening and abusive telephone calls.

Boraine said yesterday he believed the calls were part of a well-organised campaign by the far right-wing to harass and intimidate him.

"They will not succeed in doing that. They will not stop the work of the commission," he told a media briefing in Cape Town.

He had received about 30 calls on his cellphone over the past

week from a number of Afrikaans-speaking individuals.

"One particularly nasty one was 'You kaffir Boraine, we hope you die of cancer like the other kaffir (TRC chairman Archbishop Desmond) Tutu,'" he said.

"Normally I don't take this too seriously.

"I have had a number of calls, but this seems to be a well-organised campaign.

"The language that is used is clearly very racist. It is language one normally associates with the far right.

"In some instances it has been

linked to the amnesty hearing of (slain South African Communist Party leader) Chris Hanu's killers."

One caller had told him "We have dealt with people like you before and we will deal with you as well."

Boraine, who normally has a bodyguard, said modern technology made it easier to trace telephone calls than in the past.

"It can identify voice patterns much more accurately than fingerprints. Those who indulge in these calls are committing a serious offence"—Sapa

NP court action a clumsy damage control exercise, commission says

CAPE TOWN — The National Party's (NP) court action against the truth commission is a "clumsy" damage control exercise, according to court papers filed by the commission.

The NP has filed an application asking the Cape High Court to dismiss commission deputy chairman Alex Boraine and to declare that commission chairman Archbishop Desmond Tutu acted in a manner unbecoming his office at a news conference in May.

At the conference Boraine and Tutu criticised NP leader FW de Klerk's claims that he had had no personal knowledge of apartheid-era gross human rights abuses perpetrated by the security forces.

The court is due to hear the NP application on Friday.

In a document outlining their argument against the application, commission lawyers said the commission's founding legislation gave it wide latitude to decide how it functioned to achieve its aims.

The commission "has elected, after careful consideration, that when dealing with political parties it should promptly, clearly and publicly point out manifest

deficiencies ... in their testimony about gross human rights violations for which they may be responsible," the document states.

For reasons of its own, the NP had failed to respond to the deficiencies in its submissions to the commission.

"Now, anticipating a report prejudicial to its interests ... the NP seeks through this application to achieve some measure of pre-emptive 'damage control'."

The NP's attack on Boraine was also an unwarranted and scurrilous assault on the holder of an important public office.

Meanwhile, police have stepped up security around Boraine after he received a spate of death threats and abusive telephone calls.

Boraine said yesterday he believed the calls were part of a campaign by the far right to harass and intimidate him.

"They will not succeed in doing that ... they will not stop the work of the commission," he told a media briefing in Cape Town.

He had received about 30 calls on his cell phone over the past week from a number of Afrikaans-

speaking individuals

"One particularly nasty one was: 'You kaffir Boraine, we hope you die of cancer like the other kaffir Tutu,'" he said.

"Normally I don't take this too seriously. I have had a number of calls, but this seems to be a well-organised campaign."

"The language that is used is clearly very racist; it is language one normally associates with the far right."

□ The amnesty application deadline, which expired on May 10, has been formally extended to September 30 to allow potential applicants a further month in which to apply for amnesty.

The extension became official when it was published in the Government Gazette on Friday.

The commission was not expecting many more new applications, Boraine said yesterday.

Boraine said earlier that delays in the passage of a key constitutional amendment through Parliament made the deadline extension inevitable. The amendment extended the cut-off date for offences from December 6 1993 to May 10 1994 — Sapa

BD 2/9/97 (252)

NP court action a clumsy damage control exercise, commission says

CAPE TOWN — The National Party's (NP) court action against the truth commission is a "clumsy" damage control exercise, according to court papers filed by the commission.

The NP has filed an application asking the Cape High Court to dismiss commission deputy chairman Alex Boraine and to declare that commission chairman Archbishop Desmond Tutu acted in a manner unbecoming his office at a news conference in May.

At the conference Boraine and Tutu criticised NP leader FW de Klerk's claims that he had had no personal knowledge of apartheid-era gross human rights abuses perpetrated by the security forces.

The court is due to hear the NP application on Friday.

In a document outlining their argument against the application, commission lawyers said the commission's founding legislation gave it wide latitude to decide how it functioned to achieve its aims.

The commission "has elected, after careful consideration, that when dealing with political parties it should promptly, clearly and publicly point out manifest

deficiencies ... in their testimony about gross human rights violations for which they may be responsible," the document states.

For reasons of its own, the NP had failed to respond to the deficiencies in its submissions to the commission.

"Now, anticipating a report prejudicial to its interests ... the NP seeks through this application to achieve some measure of preemptive 'damage control'."

The NP's attack on Boraine was also an unwarranted and scurrilous assault on the holder of an important public office.

Meanwhile, police have stepped up security around Boraine after he received a spate of death threats and abusive telephone calls.

Boraine said yesterday he believed the calls were part of a campaign by the far right to harass and intimidate him.

"They will not succeed in doing that ... they will not stop the work of the commission," he told a media briefing in Cape Town.

He had received about 30 calls on his cell phone over the past week from a number of Afrikaans-

speaking individuals.

"One particularly nasty one was: 'You kaffir Boraine, we hope you die of cancer like the other kaffir Tutu,'" he said.

"Normally I don't take this too seriously. I have had a number of calls, but this seems to be a well-organised campaign.

"The language that is used is clearly very racist; it is language one normally associates with the far right."

□ The amnesty application deadline, which expired on May 10, has been formally extended to September 30 to allow potential applicants a further month in which to apply for amnesty.

The extension became official when it was published in the Government Gazette on Friday.

The commission was not expecting many more new applications, Boraine said yesterday.

Boraine said earlier that delays in the passage of a key constitutional amendment through Parliament made the deadline extension inevitable. The amendment extended the cut-off date for offences from December 6 1993 to May 10 1994. — Sapa.

BD 2/9/97 (252)

TRC asks attorney-general to charge former CCB men

Star 3/9/97 (252)
The Truth and Reconciliation Commission yesterday asked Western Cape Attorney-General Frank Kahn to press criminal charges against three former members of the Civil Co-operation Bureau.

Transcripts of in camera interviews with former CCB managing director Joe Verster and regional co-ordinator Wouter Basson, also known as Christo Brits, were due to be sent to Kahn's office yesterday.

Dumisa Ntsebeza, investigative unit head of the TRC, said the transcripts of his interview with CCB operative "Slang" van Zyl would be submitted in due course.

Ntsebeza has asked Kahn to charge the three in terms of Section 39 of the Promotion of

National Unity and Reconciliation Act, which compels subpoenaed witnesses to answer questions "fully and satisfactorily to the best of his or her knowledge".

If found guilty the three could be fined or face a jail sentence of up to two years.

They were subpoenaed by the commission to answer questions at separate closed inquiries on the bombing of the Early Learning Centre in Athlone, Cape Town, in August 1989, on the death of Edward "Peaches" Gordon, and on the parcel bomb that maimed Anglican priest Michael Lapsley in Harare, Zimbabwe, in 1990.

The three men refused to answer questions on the CCB's foreign operations - Sapa

Star 3/9/97 Pik says he will testify at hearing

(252)
STAFF REPORTER AND SAPA

Former foreign minister Pik Botha has agreed to appear before the Truth and Reconciliation Commission in October to testify on the role of the State Security Council during the apartheid era, according to acting chairman Dr Alex Boraine.

Confirming that Botha had accepted the invitation from the TRC, spokesman Christelle Terblanche stressed yesterday that while the body did not have powers of prosecution, it was obliged to get details which would help paint "the fullest possible picture" of human-rights violations during the apartheid era.

Other NP leaders who have been invited to testify include former state president P W Botha and former cabinet ministers Roelf Meyer, Leon Wessels and Adriaan Vlok. Botha is the only one who has officially accepted at this stage.

12 refused amnesty for necklacings

(252) ARG 3/9/97

JOHN YELD
ON THE TRUTH COMMISSION

The Truth Commission has refused amnesty to 12 members of an ANC-linked "street committee" in Mdantsane, East London, for the "necklace" murders of four alleged gangsters

The Mdantsane 12, as they are known, are serving jail sentences ranging between

10 and 25 years for the February 1987 murder of four alleged members of the "Killer Boys" gang that was terrorising their community, and attempting to murder a fifth

The 12 are Bonakele Horatius Jwambi, 48, Luyanda Kana, 34, Mzwabantu Patrick Katsikatsi, 33, Mseki Mbusi, 38, Bangkhaya Petros, 27, Xohle Edgar Nkukwana, 30, Mandlenkosi Jabavu, 35, Mbuyiselo Klaas, 29, Raymond Monwabisi

Kana, 39, Mabongo Jamela, 38, Thando Kana, 31, and Soyiso Zuzani, 30.

The 12 had claimed the killings had been in line with a decision by the street committee and the Mdantsane community, although they acknowledged the ANC had not issued any such orders

The amnesty committee found the murders had been committed out of revenge and without a political motive

Gaye challenges Boraine statement

GAYE Derby-Lewis — the wife of former Conservative Party MP Clive Derby-Lewis who was jailed for the killing of SA Communist Party leader Chris Hanu — expressed concern yesterday about statements by truth commission acting chairman Alex Boraine, who linked threats to his life to Hanu's killers.

Derby-Lewis was reacting to reports that Boraine said at a media conference the language used in the threats was clearly racist and "in some instances it has been linked to the amnesty hearing of Chris Hanu's killers."

In an open letter to Boraine, Derby-Lewis said that the statement declared further the abusive calls appeared to come from the "far right", although Boraine only mentioned the Chris Hanu matter and no other sector of what he called the "far right".

"We wish to advise you that Radio Pretoria held an interview last week with Mr Theo de Jager, chairman of the Foundation for Equality before the Law, an organisation formed a few years ago to monitor, as declared, the Truth and Reconciliation Commission's approach to evenhandedness," Derby-Lewis said.

Phone number

"We have been informed by the person who conducted the interview, Ms Anna-Marie Joubert, that Mr de Jager called her to ask for an interview on Radio Pretoria because he had received no answers from yourself to his queries."

Derby-Lewis said during the interview Joubert called Boraine on his cellular phone and left a message for him to return her call.

BD319177 (252)
"Thus your cellphone number was broadcast to literally hundreds of thousands of Radio Pretoria listeners."

"These listeners were themselves asked to telephone you regarding statements made by defence force generals during a meeting last week," she said.

The statements about the commission were reported also in the press.

Derby-Lewis said she was informed by Joubert that at no time during the interview with De Jager was the Hanu matter even mentioned.

"We thus wish to place on record our concern that these calls may be interpreted as having been a 'campaign' emanating from people connected with either the Derby-Lewis or (Janusz) Walus families. This is indeed not so," she said. — Sapa.

LLB stands firm as
B Proc is phased out

(252) (252)
DRAFT legislation phasing out the B Proc degree and allowing for a uniform four-year legal qualification to enter any branch of the legal profession was tabled yesterday

The Qualification of Legal Practitioners Amendment Bill aims to phase out the B Proc degree, still offered by universities, up to 2003

BD 319197
The LLB degree — already the minimum degree for the advocate's profession — will become the minimum qualification for any branch of the legal profession.

The bill protects those studying for the B Proc degree and who will not be able to complete their studies before the draft legislation is enacted.

They will have until 2003 to complete their studies, and they will qualify for admission as attorneys as if the bill was never passed.

A memorandum to the bill says it is not necessary to protect those who are studying to become advocates as the prescribed qualification for admission to this profession will remain an LLB

Those who have already obtained a B Proc degree, but who have not been admitted to practise as attorneys, will also be protected

They would qualify indefinitely to be admitted as attorneys on the strength of their B Proc qualification, a memorandum to the bill says — Sapa

ET 319197

Derby-Lewis checks Boraine

(252)

JOHANNESBURG Mrs Gaye Derby-Lewis — wife of former Conservative Party member and convicted murderer, Clive Derby-Lewis, jailed for the killing of SA Communist Party leader Chris Hani — yesterday expressed concern about statements by Truth and Reconciliation Commission chairman Dr Alex Boraine, in which he linked threats to his life to Hani's killers.

Derby-Lewis was reacting to reports that Boraine had said at a press conference that the language used in the threats was clearly racist, and "in some instances it has been linked to the amnesty hearing of Chris Hani's killers".

In an open letter to Boraine, Derby-Lewis said his statement further declared the abusive calls appeared to come from the "far right", although Boraine had only mentioned the Chris Hani matter and no other sector.

"We wish to advise you that Radio Pretoria held an interview last week with Mr Theo de Jager, chairman of the Foundation for Equality before the Law, formed a few years ago to monitor, as declared, the TRC's approach to even-handedness," she said.

"We have been informed by the person who conducted the interview, Ms Anna-Marie Joubert, that Mr De Jager called her to ask for an interview on Radio Pretoria because he had received no answers from yourself to his queries."

Derby-Lewis said it was ascertained that during the interview, Joubert called Boraine on his cellular phone and left a message for him to return her call.

"Thus your cellphone number was broadcast to literally hundreds of thousands of Radio Pretoria listeners. These listeners were themselves asked to telephone you regarding statements made by defence force generals during a meeting last week," she said, adding the statements about the TRC were reported in the press.

Derby-Lewis said she was informed by Joubert that at no time during the interview with De Jager was the Hani matter even mentioned.

"We thus wish to place on record our concern that these calls may be interpreted as having been a 'campaign' emanating from people connected with either the Derby-Lewis or (Janusz) Walus families. This is indeed not so," she said.

Widespread beating and torture of activists admitted

BLOEMFONTEIN — The security police in the Free State carried out widespread torture and beatings in an attempt to counter the growth of political activism during the late 1980s, the truth commission heard yesterday.

A former security policeman told the commission's amnesty committee in Bloemfontein that he took part in the torture and beatings of students and activists between 1986 and 1989.

Nelson Mphithuzeli Ngo, 32, is applying for amnesty for a murder and robbery he committed in Bloemfontein in February 1990. He alleges that he was ordered by Col Abraham Coetzee and other officers to kill and rob Pieter Venter.

He claims he was paid R500 by the security police for the murder.

Ngo has implicated 22 Free State policemen in his application for amnesty, in which he has admitted a wide range of human rights abuses.

He said that he had taken part in the beating of students who became politically active in Botshabelo.

Ngo described to the committee how a group of students were taken to the Botshabelo police station during 1986 and beaten with sjamboks.

He said security police officers Lt Terry

BD 219/97 (252)
Shaw and Lt Paul Erasmus ordered him and those taking part in the beating to tie knots in their sjamboks and to strike the students on their private parts.

After this beating the students, who were bruised and bleeding, were forced to do push-ups, he said.

Ngo also told the committee he had been instructed by senior policemen to beat the students because they were "trying to rule Botshabelo".

He said he had also taken part in the torture of people caught illegally crossing the border from Lesotho.

He said that together with other policemen he had beaten and tortured the men and women by striking them with sjamboks and applying electric shocks.

Ngo told the committee that he had also helped in recruiting "anti-comrade" gangs to counter the rise of the Congress of SA Students and other young activists.

Many of these "anti-comrades" were criminals and were recruited from prison, he said.

He has also admitted to bugging the home of Winnie Madikizela-Mandela (then Winnie Mandela) in Brandfort, where she was being detained under house arrest at the time.

The hearing is continuing. — Sapa.

Nod for law that allows president to appoint national attorney-general

BY JOVIAL RANTAO
Political Correspondent

The Cabinet has approved legislation which provides for the appointment by President Nelson Mandela of a national attorney-general.

Attorneys-general in most provinces have expressed their opposition to the possibility of a political appointee chosen to oversee the functions of the country's prosecuting authorities.

Justice Ministry spokesman Paul Setsetse said the National Prosecuting Authority Bill flows from the provisions of section 179 of the constitution, which stipulates that there shall be a single national prosecuting authority.

Setsetse said the bill would be tabled before Parliament during this session. Once approved, it would provide for the appointment of a national director of public prosecutions, nine provin-

cial directors and their nine deputies.

Once appointed, the national director, in concurrence with Minister of Justice Dullah Omar, would determine a prosecuting policy for the whole country. This would have to be followed by the nine provincial directors.

"The national director will have the right to intervene in any prosecution when the policy directives have not been adhered to, and may review a decision taken by a (provincial) director of public prosecutions," Setsetse said.

According to the draft legislation, the provincial directors may give written directions to the national and provincial police commissioners or any person investigating a criminal matter.

"The purpose of this provision is to ensure that criminal matters are properly investigated to enable effective prosecution. The

directors shall also have the power to appeal in a court against a decision made by a court in a criminal matter," Setsetse said.

In addition to the directors of public prosecutions, the president will have the right to appoint five other people as directors of public prosecutions. Their duties would not include those of a director, in terms of the bill.

The Cabinet, chaired by Chief Mangosuthu Buthelezi in the absence of Mandela and Deputy President Thabo Mbeki, further approved the Prevention of Unlawful Occupation of Land Bill, which is aimed at curbing invasions of private and public land in urban areas.

Also approved was the Land Bank Amendment Bill, the Eskom Amendment Bill, the Sub-division of Agricultural Land Act Repeal Bill, and the Chiropractors, Homeopaths and Allied Health Service Professions Amendment Bill.

Star 4/9/97 (262)

Barnard spurns amnesty 'for what he did not do'

Stephané Bothma

BD 4/9/97

(252)

PRETORIA — Former Civil Co-operation Bureau (CCB) operative Ferdi Barnard will not apply for amnesty on charges of murdering Wits lecturer David Webster or for attempting to murder Justice Minister Dullah Omar.

Appearing briefly in the Pretoria Regional Court yesterday after his arrest on Monday, a relaxed-looking Barnard said "I will not seek amnesty for crimes I did not commit. I will take my chances in a court of law and walk away a free man within six months."

Barnard faces 24 charges, including that of the murder of Webster and the attempted assassination of Omar in 1989. The other charges include murder, fraud, housebreaking with the intention of committing murder, housebreaking with the intention to steal, deliberate damage to property, obstruction of justice, robbery and illegal possession of firearms. Barnard said he would, however, still consult his advocate on the issue of amnesty.

According to the indictment submitted by deputy Transvaal attorney-general Anton Ackermann SC, Barnard had been an operative for the SA Defence Force's CCB from January 1989 to September the same year.

The purpose of the CCB — a covert unit which used front companies to carry out its work — was to collect information about the enemies of SA, to launch operations against them and to

cause maximum disruption among the enemies, which included killing them.

"The enemies, according to the CCB, were the African National Congress, the United Democratic Front and the End Conscription Campaign," the indictment states.

"The CCB had taken elaborate steps to conceal any links to government. It recruited members of the private sector and financed them to start front companies."

According to the state, Barnard had monitored the movements of Webster — a human rights activist who at the time had shown an interest in the unlawful actions of the SA Defence Force.

The indictment states that Calla Botha, also a former CCB operative, had been in the vehicle when Webster was shot outside his home.

Botha was also part of a team who had attempted to murder Omar.

The indictment also says Barnard and his former lover, Amore Badenhorst — now a state witness in a protection programme — had been involved in fraudulent diamond deals involving millions of rands.

Barnard will again appear in court on September 17, when a date for his High Court trial will be announced.

Lawyers representing Barnard yesterday said the former policeman, who had already served a jail term for murder, refused to communicate with investigators unless in the presence of his legal representatives.

UNIFORM PROSECUTIONS POLICY

Post of super A-G ⁽²⁵²⁾ now a step closer

JOHANNESBURG: One of the tasks of the national attorney-general will be to determine national prosecuting policy in concurrence with the Minister of Justice.

THE cabinet has approved legislation which provides for the appointment by President Nelson Mandela of a national attorney-general

Attorneys-general in most provinces have expressed their opposition to the possibility of a political appointee chosen to oversee the functions of the country's prosecuting authority

Justice Ministry spokesman Mr Paul Setsetse said the National Prosecuting Authority Bill flows from the provisions of Section 179 of the Constitution which stipulates that there shall be a single national prosecuting authority.

Setsetse said the bill would be tabled before Parliament during this session and, once approved, would provide for the appointment of a National Director of Public Prosecutions, nine provincial

directors and nine deputies

He said that once appointed, the national director, in concurrence with the Minister of Justice, Mr Dullah Omar, would determine a prosecuting policy that would be applied uniformly throughout the country. The policy would have to be followed by the nine provincial directors

"The national director will have the right to intervene in any prosecution when the policy directives have not been adhered to and may review a decision taken by a director of public prosecutions," Setsetse said

According to the draft legislation, the provincial directors may give written directions to the national and provincial police commissioners or any person investigating a criminal matter.

"The purpose of the provision is

to ensure that criminal matters are properly investigated to enable those cases to be effectively and efficiently prosecuted

"The directors shall also have the power to appeal in any court against a decision made by a court in a criminal matter," Setsetse said

He said that in addition to the directors of public prosecutions, the president had the right to appoint five other persons as directors of public prosecutors. Their duties would not include those imposed on a director in the bill.

The cabinet also approved the Prevention of Unlawful Occupation of Land Bill which is aimed at curbing the invasion of private and public land in urban areas

Also approved was the Land Bank Amendment Bill, the Eskom Amendment Bill, the Sub-division of Agricultural Land Act Repeal Bill and the Chiropractors, Homeopaths, and Allied Health Service Professions Amendment Bill —
Political Correspondent

CT 4/9/97

NP wants to make peace with TRC

Marion Edmunds

National Party leader FW de Klerk's resignation from his party last week may have opened the door to an out-of-court settlement in the legal battle between his party and the Truth and Reconciliation Commission.

As the two sides squared up for their Cape High Court hearing scheduled for Friday, both were hinting at an out-of-court negotiation. A senior NP official said "Anything can happen, but our case is clear and we are proceeding with it." A settlement is possible at any stage of the proceedings — even if argument is heard on the first day.

Senior NP leaders indicated privately that much of the resolve for the case stemmed from De Klerk's sense of betrayal towards the commission. Commission deputy chair Alex Boraine's scathing analysis of De Klerk's performance during party political hearings in May this year provoked the NP to court action.

MTG 5-11/9/97 (252)

Many NP leaders personally view the commission, and the evidence which has been led before it, as a contributing factor to the party's collapse since 1994, and support efforts to staunch the bleeding by taking a public stand against the commission.

But the battle — if it continues in court — may end up bruising the party harder than was originally imagined. At the hearing in May, Boraine questioned De Klerk's explanations of the role the NP played in supporting apartheid before 1994, particularly his failure to account for having known about hit-squad activities, conducted covertly by government forces.

The NP's main challenge is that the commission, particularly its chair Desmond Tutu and Boraine, have treated the NP unfairly and flouted truth commission legislation. The party has also urged the court to oust Boraine.

The commission's response is that the NP had misinterpreted commission legislation, and were partial themselves. "The NP's attack

on Boraine, in particular the persistent harping on this opposition to the NP in Parliament, and the groundless attacks on his work at Justice in Transition, can only be described as an unwarranted, scurrilous assault on the holder of an important and demanding public office," commission court papers say.

Kagiso TV channel bid — a correction

In the article "Blow to Kagiso's TV-channel bid", the *Mail & Guardian* (August 29 to September 4) reported that a high court judgment had apparently accused the Kagiso Trust Investment company of an "unacceptable business practice". This is not so. The newspaper regrets any embarrassment caused to the company.

'Winnie hired me to kill Dr Asvat'

A sensational prison interview with M&G reporters uncovers new evidence linking Madikizela-Mandela to the murder of Dr Abu Baker Asvat

One of the two men convicted of the killing of Dr Abu Baker Asvat at his Soweto surgery on January 27 1989 described this week how they were contracted by Winnie Madikizela Mandela to carry out the assassination to cover up the beating of the murdered activist Stomple Seipel

In an hour long exclusive interview with the *Mail & Guardian* in a Durban prison, Thulani Nicholas Dlamini, who is seeking amnesty for the murder, said "Mrs Mandela promised us R20 000 to murder Dr Asvat."

His story is corroborated in an affidavit signed by fugitive Katiza Cebekhulu, who claims to have first met Dlamini and his accomplice, Cyril Mbatha, at Madikizela Mandela's house in Diepkloof, Soweto, shortly before the murder of Asvat

Cebekhulu was spirited out of the country on the eve of Madikizela Mandela's trial in 1991. Cebekhulu is now under the protection of a former British MP, Emma Nicholson

In the statement, taken in London by a South African police officer, Cebekhulu claims to have driven two men — apparently Dlamini and Mbatha — to show them where Asvat's surgery was

The Truth and Reconciliation Commission is in possession of Cebekhulu's affidavit and it is believed that it is going to form a crucial part of the commission's probe into Madikizela Mandela

She has been subpoenaed to appear before the truth commission on September 25 and 26, where she will be questioned about the murder of Stomple and other activities related to the Mandela Football Club

Dlamini told the *M&G* he had first reported the details of Madikizela Mandela's involvement in Asvat's murder in a statement to the police in 1989, but they refused to make use of it in the court case

He failed to explain why he had not reported it during the case, in which he pleaded not guilty. However, according to police documents, Dlamini was beaten up and had his nose broken in prison by Jerry Richardson, Mandela United Football Team coach

The court found that the motive for the murder was robbery, and the two were found guilty and sentenced to death. The sentences were later commuted to life imprisonment

At the insistence of the Asvat family, the investigation was reopened in 1995 with the same team of detectives. Superintendent HT Moodley confirmed that he had interviewed Cebekhulu in London. However, he denied that Madikizela Mandela was being probed

In answer to questions about the possibility of a cover up, police have insisted that the witnesses were too unreliable to sustain a prosecution, their statements often contradicting one another

Dlamini told the *M&G* that Richardson was present in Asvat's Soweto surgery when the assassination took place

Police statements in the *M&G*'s possession claim that Richardson was in the surgery hours before the murder. He first visited Asvat on January 26 1989 at "about 5pm or 6pm to complain of a pain in the anus"

According to the police documents, Richardson's medical record was filled out in Asvat's handwriting before he paid a surprise visit again the following day, "ostensibly for follow up treatment"

Dlamini told the *M&G* he first came across Cebekhulu at Mrs Mandela's house in Orlando West. He was the one who led us to Dr Asvat's surgery, where he pointed it out to us"

Dlamini said this was after the meeting with Madikizela Mandela, who promised to

pay them R20 000 once the planned assassination had successfully been carried out.

He claimed that the price on Asvat's head was proposed by Mbatha — who was convicted with him of the murder — after Madikizela Mandela had asked how much they would charge for the doctor's assassination.

Although he could not recall the date, Dlamini said they had first been introduced to Madikizela Mandela by an intermediary known to him as "Shwala Botha", who told them Winnie had promised a lot of money for Asvat's killing because of the death of Stomple

"He said we should not worry about weapons as we would be supplied with firearms to carry out the mission," recalled Dlamini.

According to Cebekhulu's affidavit, Asvat was killed because he refused to provide Madikizela Mandela with false medical certificates to say he was sexually abused by the Methodist church cleric Paul Verryn and because he was a witness to the fact that Stomple had been badly beaten at Madikizela Mandela's house

"He told Mrs Mandela that he did not believe that I had been raped at all. He invited her to explain why, if I had been raped she had not brought me to see him that same day," says Cebekhulu

The following day, on December 31 1988, Asvat visited Mandela's house after he was called to examine Stomple who, together with other youths, was badly assaulted after being accused of sleeping with Verryn

Cebekhulu provides a chilling description of Stomple's last days at the Mandela

home "I do not know why Mrs Mandela assaulted and ordered seven others to assault Stomple so fiercely, except that she also accused him of being a police informer

"Dr Asvat came and said Stomple could die at anytime and must go to hospital immediately. The doctor left late that night and after the household had gone to bed, I heard steps, looked out and saw Mrs Mandela carrying something in her hand which she lifted high and plunged down into a body that I identified as being Stomple

The following morning the water in the swimming pool had gone, bloodstains were on the pool surface and Stomple had disappeared

At the trial in 1991 Madikizela Mandela was cleared of involvement in the fatal assault on Stomple after the judge had accepted her alibi that she had been in Brandfort at the time. Since the trial, however, the witnesses who supported her alibi have retracted their evidence

According to Dlamini, the day they first met Madikizela Mandela, they entered her Diepkloof house through the back door

"We found a lady whom Botha asked if we can see Winnie. We sat in the dining room while she went to inform her about our presence," he recalled this week

"Mrs Mandela came and greeted us before Botha introduced us. Botha said we are the

people who can help in connection with that matter.

After asking us if we have the courage to carry out that mission, we told her that we have no problem. She asked how much would we want. Cyril said R20 000

"She said we should first carry out the attack and Katiza [Cebekhulu] will show us Asvat's place. Katiza pointed out the place to us the following Thursday and we did not find Dr Asvat that day"

In his affidavit, filed thousands of kilometres away, Cebekhulu confirms Dlamini's story. He says "A few days before I went to the police station with Krish Naidoo [Madikizela Mandela's lawyer at the time] and subsequently with Mrs Mandela to Dr Asvat's surgery two young men had come to see Mrs Mandela

"Mrs Mandela had called me and instructed me to drive with them and show them where Dr Asvat's surgery was and in which street I had shown them the surgery

"I had not seen these men in Mrs Mandela's house before, nor had I met them in any other place"

According to Dlamini, who claims all his statements implicating Madikizela Mandela were rejected by the police, there were many people in Asvat's surgery when the assassination took place

"After we entered the surgery, Cyril's name was written in the register book and his fingerprints were taken. There was a waiting room with an electric grill door leading to the consultation

room Cyril was called," he said

"He went in while I stayed behind. Immediately after he entered the consultation room, I heard shots going out. He shot him twice before we ran away. People screamed and ran in different directions while others took cover

"We were supposed to fetch our promised R20 000 from Mrs Winnie Mandela the following day. However, her driver John Morgan told us that she's gone somewhere near to Vereeniging and that she'll come back sometime on Sunday night."

However, he and Mbatha were arrested before they were paid

The latest disclosures about the Asvat killing — much of which is based on evidence which has been available to the authorities for years — again raises questions about a possible cover up

One of the investigators, Superintendent Moodley, took several statements from Dlamini in Durban prison this year, after the investigation had closed

Dlamini said he had been under the impression that he was being interviewed for his amnesty application to the truth commission. But the commission said it had seen no sign of any application from Dlamini, and Moodley denied that Dlamini had mentioned Madikizela Mandela in the statements

Dr Asvat's brother, Dr Ebrahim Asvat, this week demanded that the police investigation be reopened once more, but this time with new investigating officers

Attempts to reach Madikizela Mandela for comment were unsuccessful.



Dr Asvat An affidavit says he was killed because he was a witness to the fact that Stomple Seipel had been badly beaten at Madikizela Mandela's house

(252) M+G 5-11/9/97

Biko: Now for the truth?

Lizeka Mda

Q In the available evidence the death cannot be attributed to any act or omission amounting to a criminal offence on the part of any person," ruled the magistrate in the Steve Biko inquest in November 1977. All he had determined was that the cause of death was indeed brain injury.

Now, 20 years later, five of the eight security police officers in whose custody Biko had been when he suffered brain damage have confessed culpability and applied for amnesty.

Major Harold Snyman, Captain Daantjie Siebert, and warrant officers Ruben Marx and Johan Beneke had testified at the inquest that on the morning of September 7 1977, Steve Biko, with a "wild expression in his eyes", had suddenly attacked the police officers, and it had taken all five members of the interrogation team to subdue him. The inference, accepted by the magistrate as a probability when he exonerated the police, was that Biko had hurt his head in the scuffle.

They testified that even though Biko had developed slurred speech, could not eat, foamed at the mouth, and urinated in his blankets, they kept him shackled and naked.

Four days later, in the same



Gideon Nieuwoudt: 'Just the mention of his name used to subdue detainees.'
PHOTO COURTESY OF RAPPORT

Nieuwoudt, who did not testify at the inquest, will appear in front of the amnesty committee of the Truth and Reconciliation Commission (TRC). They want amnesty for assault and culpable homicide — not murder. They will argue that Biko's death was not intentional.

The Biko family has instructed the Legal Resources Centre to

charged for any crime more than 20 years after the event. On the other hand, if the five are granted amnesty, they will be exempt from either civil or criminal charges.

But the amnesty committee has to be satisfied that there has been full disclosure. In the Biko case, for full disclosure, one of two things should happen. Either the five applicants will add some meat to the bones of their conflicting accounts of the alleged scuffle, supposedly initiated by a Biko who was "clearly beside himself with fury", according to Snyman's evidence, or, they will confess to wholesale perjury.

Earlier this year, the TRC investigative unit head Dumisa Ntsebeza reported that an anonymous source had claimed poison was the cause for Biko's brain haemorrhaging, and that the allegation was under investigation. This week, the unit's director of investigations, Glen Goosen, could only confirm that when the hearings open next week, the amnesty committee will have all the facts.

A keen subject of these investigations is Gideon Nieuwoudt, who is an amnesty applicant in a record five cases. He is the sole applicant in the case of the torture of Mkhuseleli Jack, which opens this round of hearings in Port Elizabeth on Monday.

He was sentenced to 20 years in

(252) M49 5-11/9/97

Sipho Hashe, Gagawuli Godolozini and Champion Galela, as well as the disappearance and death of Siphiso Mtimkulu and Topsy Madaka in 1982. The TRC has told their families that former security policemen have confessed to dumping their charred remains in the Fish River outside Cradock.

At the memorial held by the families at the site, Mtimkulu's mother Joyce said they were still looking for the truth. Nieuwoudt, she said, "must tell us the story from the beginning, where it all started. It did not begin here, with the throwing of the bones in the river. It started far back, from when they tortured my son, to when they poisoned him, then stole him and killed him," she said.

And here should be the key to the amnesty applications. Mpu-melelo Nyoka, the lawyer for the Pebo Three, Mtimkulu and Jack, says he will be opposing these applications.

Last year Nieuwoudt brought an interdict preventing his being named by witnesses — including Jack and Joyce Mtimkulu — in their evidence of gross human rights violations.

This meant, said Jack at the time, that he had to leave out 70% of his planned submission. Jack says he is looking forward to Nieuwoudt's hearing. "Nothing stood in the way of this man's dedica-

Mungo Sogot VIEW FROM THE GALLERY

South Africa's Acting President, Mangosuthu Buthelezi, could not restrain himself. He had spent two hours watching a string of politicians do the Masakhane, with speeches full of pledges and snipes. By then, most of the Cabinet ministers had skulked off, leaving a lonely Minister of Provincial Affairs and Constitutional Development Valli Moosa to give the Cabinet's imprimatur to Masakhane Focus Week.

"Do you have any information where the other ministers are?" the acting president beamed. "I will need to give a complete report to the president."

Moosa replied that many of his colleagues were in Lausanne, Switzerland, supporting Cape Town's Olympic bid. "And the rest who were here earlier?" inquired Buthelezi. Moosa suggested several other ministers were bound for the Southern African Development Community conference in Blantyre.

"With respect, those going to Malawi left this morning," countered the acting president. Moosa's quiver was empty, but he conceded graciously. "Other members who are neither in Malawi nor Switzerland are not here because, I am convinced, of their commitment to implementing Masakhane."

Earlier that afternoon, the Masakhane Focus Week festivities had started off with a low-key photo opportunity for Moosa and other MPs. They had all signed glossy Masakhane pledge forms which were circulated through Parliament and which even committed

Amnesty denied to 12 who killed and burnt four

By ROBERT BRAND

February 1987

The amnesty committee of the Truth and Reconciliation Commission has refused amnesty to 12 Mdantsane, East London, residents who had burnt four suspected gang members to death

The applicants are serving terms of imprisonment ranging from 10 to 23 years after being convicted of murdering four alleged members of the "Killer Boys" gang, and then attempting to murder a fifth person, again in Mdantsane, in

Amnesty was refused to Bonakele Horatius Jwambi (48), Luyanda Kana (34), Mzwamond Monwabisi Kana (39), Mabongo Janela (33), Thando Kana (31), and Soyiso Zuzani (30)

No evidence of collusion with police

bantu Patrick Katsikatsi (33), Mseki Mbusi (38), Bangikhaya Petros (27), Xolile Edgar Nkrwana (30), Mandlenkosi Jabavu (35), Mbuyiselo Klaas (29), Ray-

mond Monwabisi Kana (39), Mabongo Janela (33), Thando Kana (31), and Soyiso Zuzani (30)

They murdered Folhe Bushula, Mpumelelo Mbingo, Mkhusele Yellem and Archie Pool Swartland

The applications were heard in July and November last year by a four-member panel of the amnesty committee headed by Mr Justice Andrew Wilson

The applicants told the committee that the Killer Boys terrorised residents of Mdantsane by stabbing them with

knives and pangas, hacking them with axes, raping the womenfolk and generally destabilising the community

But the committee found they had not provided any evidence for their statement that the Killer Boys were acting in collusion with the police

All the applicants stated they were members of a street committee of the Mdantsane Residents' Association, which became an affiliate of the United Democratic Front

However, they did not claim the order to kill the gang mem-

bers had come from the street committee. On the contrary, the committee said, they testified that their orders were to capture gang members, beat them and then hand them over to the police.

To qualify for amnesty, an applicant has to prove he had been acting on behalf of a political organisation

Ten of the 12 applicants did not admit their part in the murder

The others claim they were not present when it occurred, or did not take any active part

in the burning of the victims, the committee said
Amnesty cannot be given to an applicant who does not confess to the deed for which amnesty is sought

"For the applicants to succeed in their application they must satisfy us that the act, that is the burning of the deceased, is an act associated with a political objective.

"On the evidence before us we do not accept that the killing of the deceased, in the circumstances existing, were acts associated with a political

objective or were committed on behalf of any liberation movement within the course and scope of any express or

Purpose of killing was revenge

implied authority
"Nor do we believe that the applicants believed, on reasonable grounds, that they were acting within such authority

The acts did not occur in the course of a political disturbance, the object of the killings was to take revenge against the members of the gang and they were committed out of enmity against them. This is confirmed by the method used to kill these gang members.

"In these circumstances the applicants are not entitled to amnesty in terms of the Proclamation of National Unity and Reconciliation Act

"The amnesty applications of the 12 applicants are accordingly refused."

gang members

252

Spaw 51

797

Winnie faces new claims over Stompie assault

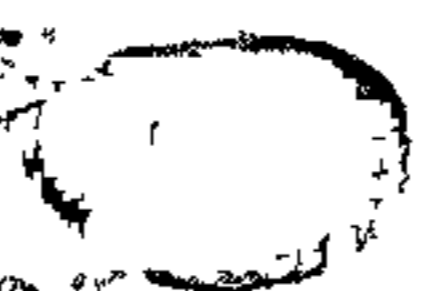
Fresh information emerges about murder of Soweto doctor in 1989

Winnie Madikizela-Mandela faces new allegations about her role in the kidnapping of, and assault on, teenage activist Stompie Seipei — and her alleged link with the death of Soweto doctor Abu-Baker Asvat.

New allegations are also expected to be made about her involvement in the disappearance of other youths associated with her former bodyguards, the Mandela United Football Club.

The partly-decomposed body of 14-year-old Stompie was found in the open in Soweto on January 6, 1989, and "people's doctor" Dr Asvat was murdered in his Soweto surgery three weeks later.

Dr Asvat was reportedly called to Mrs Madikizela-Mandela's Diepkloof home to examine Stompie and several other youths who had been abducted from the Methodist Church manse in Soweto and then brutally assaulted. Some youths associated with the



ON THE TRUTH COMMISSION

club are still missing and their parents and Stompie's mother have appealed to the Truth Commission to find what happened to them.

New information that is believed to implicate Mrs Madikizela-Mandela in these incidents has been given to the Truth Commission in the form of statements to its investigators and in amnesty applications.

This information will form the basis of many of the questions commission investigators will put to Mrs Madikizela-Mandela when she appears under subpoena at a "Section 29" closed inquiry, scheduled for the 25th and 26th of this month.

One of two convicted killers of Dr Asvat, Thulam Dlamini, who is serving a life sentence, is expected to apply for amnesty from the Truth Commission.

In a statement to police at the time of his arrest, Dlamini claimed that he had been paid R20 000 by Mrs Madikizela-Mandela to murder Dr Asvat. However, this statement was not used at his trial.

Instead, a statement by Dlamini's co-accused, Zakhela Mbatha, in which he said they had gone to Dr Asvat's rooms planning to steal money, was accepted by the court after a "trial-within-a-trial".

The robbery motive was not accepted by Dr Asvat's family.

Dlamini applied for indemnity in terms of the Further Indemnity Act during the final days of the De Klerk government, but this had not been granted by the time the Act lapsed. In March last year, the records of the indemnity office were taken over

by the Truth Commission.

"We sent new application forms to all those who had applied for indemnity. Dlamini was among them, but we never had a reply," Truth Commission spokesman John Allen said yesterday.

However, the period for amnesty applications to the commission has now been extended to the end of this month, and Dlamini is expected to apply.

This was confirmed by Truth Commissioner Yasmin Sooka, who said one of their investigators had been sent to get a statement from him.

The Truth Commission's national director of investigations, Glenn Goosen, confirmed that allegations that Dr Asvat had been murdered to prevent his disclosing details of torture of Stompie and other youths were being investigated.

"To what extent we will be able to pursue this with Mrs Madikizela-Mandela remains to be seen, but obvi-

ously we want to pursue it as far as we can," he said.

The Truth Commission is also in possession of an amnesty application from "missing witness" Katiza Cebekhulu, who claims he was spirited out of the country by the African National Congress to avoid having to testify for the state in the 1993 trial of Mrs Madikizela-Mandela for the kidnapping and assault of Stompie and the other youths.

In an earlier trial in 1990, football club "coach" Jerry Richardson was convicted of Stompie's murder and sentenced to death, but this was later commuted to life imprisonment.

Mr Cebekhulu was held in a Zambian jail for several years before being released and taken to Britain, where he has been taken under the wing of former British MP Emma Nicholson.

In a statement to police before his disappearance from South Africa, Mr Cebekhulu made damaging allega-

tions about Mrs Madikizela-Mandela's involvement in the Stompie case, and also linked Dr Asvat's murder to the assaults on Stompie and the other youths.

More revelations about the Stompie murder are expected this week-end, when excerpts from a book by British journalist Fred Bridgland based on interviews with Mr Cebekhulu will be published in major British and European newspapers.

At the end of Mrs Madikizela-Mandela's trial, in which 10 of the 12 key witnesses did not testify, she was convicted and sentenced to five years in jail for kidnapping and one year for being an accessory to assault.

On appeal, her conviction for kidnapping was confirmed, but the sentence was altered to a R15 000 fine or one year in jail, plus a two-year jail sentence suspended for five years.

She was also ordered to pay R5 000 compensation to each of the three surviving kidnapping victims.



Winnie Madikizela-Mandela: under pressure from new allegations

Parliament has to decide on an issue that divides and inflames people

Talking up Good's mantle

Spaw 6/9/97

(252)

Doctor's beliefs helped him to die

Dr Fred Clarke is pro-euthanasia, and his decision was made while working with extremely damaged patients in Durban

Clarke spent much of his internship working in Addington Hospital's stroke ward, which was termed "MacDonald's Farm" because of the noises patients made.

His experiences there as a houseman convinced him that voluntary euthanasia was essential to allow people to die with dignity

"Euthanasia is desirable if people dying of a terminal or incurable illness are forcibly kept alive. I'm not saying we should put people down like dogs, but we should not resuscitate people who would otherwise die." Clarke told a large audience at the Durban City Hall in 1983.

Little did he know that, just five years later, he would become a guinea pig in the first South African court case to deal with the right to die issue.

Natal University professor David McQuoid-Mason asks a hypothetical question "A permanent-vegetative-state patient shows signs of life-threatening failure of, in succession, heart, lungs, liver, kidneys, spleen, bladder, pancreas. In each case the failure can be safely rectified by serious surgery, carried out without pain or distress to the unconscious patient. Is the doctor obliged to undertake these life-saving procedures?"



It is issues like this that will be determined when the proposed euthanasia act comes before Parliament next year. Like the argument over the death penalty or the abortion issue, euthanasia is an emotive issue that inflames society and holds no middle ground. It also leaves families of victims, as well as doctors caring for them, in the unenviable position of playing God.

And with the human body frequently capable of clinging on to life despite irreversible brain damage or the failure of vital bodily functions, there is much room for errors of judgment.

The South African Law Commission is now considering more than 200 submissions from the public, and the legal and medical professions, as a basis for draft legislation to determine the laws governing euthanasia. This follows the draft bill on the Rights of the Terminally Ill Patient, published by the SA Law Commission for public comment earlier this year.

number of proposals in the draft bill

"We recognise that in the event of terminal illness, or where there is no possible chance of recovery, the employment of life-supporting systems to sustain life is pointless and only prolongs pain and suffering," said Brigd Ray, director of the society, which boasts a membership of 34 000 throughout South Africa.

But this organisation has washed its hands of the more delicate and emotive issue of assisted suicide, an issue that is raging around the world

Under current South African law it is illegal to end the life of a terminally ill patient, even if that person wishes to die. The person who actively causes the other's death cannot escape liability by proving that he or she had a good motive

There is also no definition of death in South African law, but Professor Chris Barnard, perhaps the closest when he bluntly said, "a person is dead when the doctor says he is dead".

Dr Selma Browde, a consultant in palliative medicine - which focuses on alleviating pain rather than seeking a curative medicine - says that, for too long, doctors and nurses have grappled with the conflict between their duty to care for the patient in the patient's best interests, and misconceptions about their legal and moral rights to relieve pain.

"At the moment doctors are scared. There is an enormous amount of un-



Commission, said that when all these arguments had been studied, the commission would write a report and draft legislation which would reflect the opinion of the submissions.

"If I look at the response we have had, this is a very emotive issue — people feel very strongly whether they are for or against euthanasia," she said.

The submissions were based on the Law Commission's discussion paper, which lays out the issues surrounding euthanasia — also known as mercy-killing — from various perspectives and includes information from foreign countries and their experiences and legislation on the issue.

The paper also defines the different types of euthanasia, ranging from voluntary active euthanasia to assisted suicide, defined under the one blanket term "The Living Will Society, which was formed in KwaZulu Natal almost 25 years ago, stops short of endorsing active euthanasia, but it "warmly welcomes" a



CONFLICTS: Doctors are scared, says Selma Browde

necessity, but we don't know where they stand," she said.

Currently in South Africa, common-law principles dictate whether a "doctor-assisted suicide" constitutes murder. But the use of a "suicide machine", popularised by Dr Jack Kavorikian and enabling terminally ill patients to end their lives by pushing a button to inject potassium chloride into their veins, would be regarded as active euthanasia.

Euthanasia hit the headlines in this country five years ago during the trial of a Cape nurse who administered a lethal injection of insulin to two elderly patients who were terminally ill. She received a lengthy suspended sentence.

A recent poll of doctors by the Medical Association of South Africa established that 12% had assisted terminally ill or suffering patients to die. Within the next few months, doctors — and their patients — will finally know where they stand in terms of the law.

Recognition of written directive, power of attorney urged

The South African Law Commission recommends the enactment of an act to provide for:

- The determination of the meaning of a terminal illness
- The recognition of a written directive regarding the cessation of medical treatment in cases of terminal illness
- The recognition of a power of attorney authorising a person to make decisions concerning medical treatment or the

cessation thereof with regard to the principal, in the event of his terminal illness

- Endurance of a power of attorney after the principal has become mentally incompetent.
- A court order as a remedy in the absence of a directive or power of attorney in the case of terminally ill patients
- Instances in which the head of a medical institution may, in the absence of a directive from the patient or his/



Brain-dead diver heard medics debating whether to turn off life support

her agent or of a court order, decide to discontinue the treatment of a terminally ill patient

The act provides for the possibility that circumstances may exist in which a person's desire not to be kept alive artificially because he or she would be subject to further suffering should be complied with, provided that the person concerned is terminally ill with no reasonable prospect of recovery

British tourist Mark Newton is probably the best weapon in the arsenal of those opposed to euthanasia.

Newton was in the prime of his life when he raced to the surface too quickly while scuba diving off the Cape coast three years ago. By starving his brain of oxygen he immediately fell into a coma and was declared brain dead by doctors. After being flown to a London hospital, his parents resigned themselves to allowing their son's life support system to be switched off.

did they know that "lifeless" Mark was taking in every word they were saying. On the day when the machines were due to be cut off, his mother pleaded with the doctors to give him a few more weeks. And that's all he needed. A few days later Mark opened his eyes and announced that he had been aware of everything that had been going on around him during his vegetative state.

"It was as clear as a bell. I heard you discussing this kid who was on a life support system. It never occurred to me that I was the kid

you were talking about," he later told doctors. Newton even remembered an occasion when his mother sat by his bed and told him that his sister had given birth. He even remembered the baby's name and its weight.

Although Newton still has some difficulty walking, his brain has recovered and he is currently enrolled at a Midlands university. Certainly, his experience has questioned whether medical science knows enough about the vegetative state to make such critical decisions.



New revelations expected in TRC amnesty applications

Full Biko story is about to emerge

Grahamstown - After 20 years in the historical and political wilderness, the truth about the brutal beating and death of Black Consciousness leader Steve Biko at the hands of security policemen is expected to emerge next week.

And in an ironic twist, a bronze statue honouring the contribution Biko's untimely death made to speeding up the collapse of apartheid will also be unveiled at a glittering function in East London next week.

At the same time, 300km away in Port Elizabeth, five former security policemen who have applied for amnesty from the Truth and Reconciliation Commission for Biko's death should be squirming in their seats as they open a two-decades-old can of worms.

Biko's widow Ntsike said this week she would have to juggle her time between the TRC hearings and preparations for the unveiling of the statue on Friday. Hours later, a bronze bust of Biko will also be unveiled at his home in King William's Town's Ginsberg township. "I am very happy Steve will at last

get the recognition he deserves, but I am also worried I will not have time to fully attend the TRC hearings."

From September 9-12, convicted killer Lieutenant-Colonel Gideon Nieuwoudt, as well as Colonel Harold Snyman, Major Gerhardus Lotz, War-rant Officer Ruben Marx, Captain Daanjie Siebert and Warrant Officer Johan Benecke will testify on the interrogation and death of Biko.

In another twist this week, lawyer Francois van der Merwe, who is representing eight former security policemen at the amnesty hearing, dropped a political bombshell when he announced that the testimony would draw a direct line between the actions of the security forces and the former National Party government.

"Indirect and direct reference may be made to specific politicians as well as to the establishment. It is obvious these guys were acting to protect a system," he said.

Van der Merwe added that some of the policemen seeking amnesty for Biko's death wanted to meet his family to express their regrets. The final day of testimony will



TWO DECADES LATER Statue of Steve Biko is to be unveiled in East London

also coincide with the 20th anniversary of Biko's untimely death and the unveiling of the statue and bust. Hollywood stars Kevin Kline and Denzel Washington, who acted in *Cry Freedom*, the movie about Biko, and contributed financially to the statue, are expected to rub shoulders with President Nelson Mandela and other VIPs at the East London

City Hall. It is not known whether the actors will make time to attend the TRC hearings.

Cry Freedom highlighted Biko's relationship with former *Daily Dispatch* editor Donald Woods.

And in yet another ironic twist, the infamous John Vorster Bridge, which Biko crossed several times in the back of cop vans en route to Fort Glamorgan prison, will also be renamed in honour of the fallen hero. East London mayoral assistant Rose Wearing said recognition for Biko was "long overdue."

Sculptor Naomi Jacobsen, who spent three months crafting the impressive 2.2m statue, said it was one of the highlights of her lengthy career. Jacobsen, who used newspaper and magazine clippings, as well as two photographs as reference, said her work was unusual because, unlike other statues, it portrayed Biko with his shirt sleeves rolled up and dressed in jeans - not a suit and tie.

"The man-in-the-street will be able to relate to the casual pose and dress of the statue." Although criticised in Azanian

People's Organisation circles for being white, Jacobsen has worked on busts of other prominent leaders such as Mandela, Walter Sisulu and Oliver Tambo. The statue has been praised by Biko's family and Woods as bearing an uncanny resemblance to Biko.

The build-up to the unveiling of the statue and TRC amnesty applications has not been without controversy. Two weeks ago about 50 protesters gathered at East London's City Hall claiming that the Biko statue should be erected in King William's Town, his hometown. Although not representing any group, the protesters said only heroes of the struggle in Mdantsane should be honoured in East London.

The Border Historical Society joined the fray when it complained that the proposed moving of an Anglo-Boer War equestrian monument erected outside the city hall in 1908 would cause irreparable damage to the statue.

In a hectic week, the truth about Biko's death and long overdue recognition of his contribution will, hopefully, finally see the light of day. - ECN

Top counsel on Boesak's side in court

ARG 6/9/97 (252) (252)

Taxpayers will pay

ADELE BALETA

Beleaguered cleric Allan Boesak will have heavy legal artillery on his side when his trial begins in the Cape High Court later this month.

This is after legal aid worth hundreds of thousands of rands – funded by public money – was restored to him this week.

This means he will have one of the country's top counsel, junior counsel, attorney and a forensic accountant.

Dr Boesak's defence strategy was in jeopardy when the Legal Aid Board announced recently that it was withdrawing funding for his defence.

But Dr Boesak's attorney Chris Petty said the board made an offer this week to rescind its decision. This means the junior counsel's salary will continue to be paid by taxpayers.

The Legal Aid Board would continue to pay for Dr Boesak's defence on condition that it be entitled to consider later whether to continue giving monetary aid to Dr Boesak, Mr Petty said.

Comment from the board was unavailable.

The board's earlier decision to withdraw funding follows revelations

in the Saturday Argus last month that South African ambassador in Washington, Franklin Sonn, had lobbied South African businessmen to pay for Dr Boesak's senior counsel.

The assistance meant Dr Boesak could afford to pay expensive senior Pretoria counsel, Mike Maritz, who successfully defended Magnus Malan and his generals in the KwaMakuthu murder trial.

The board had previously turned down Dr Boesak's request for funding for senior counsel.

Wednesday's pre-trial hearing on whether the main trial of Dr Boesak and his former Foundation for Peace and Justice bookkeeper Freddie Steenkamp should be separated, was postponed in the Cape High Court to September 23.

Dr Boesak and Mr Steenkamp face 32 charges of theft and fraud totalling more than R8 million. The charges relate to the alleged misuse of anti-apartheid funding.

Mr Boesak has consistently denied any dishonesty involving the disappearance of the money. Mr Steenkamp has admitted taking R750 000 from the Foundation for Justice and Peace, some of which was used to buy himself cars and a ski-boat.

'Magistrates are loafing on the job'

R200-m lost to mismanagement

PAUL OLIVER

While magistrates complain at being overworked, new figures reveal many are relatively idle and more than R200-million in taxpayers' money is being lost each year through bad court management.

And this figure is just the tip of the iceberg as they are based on statistics in the Western Cape and projected for the rest of South Africa.

They exclude the former independent homelands of Transkei, Bophuthatswana, Venda and Ciskei where three years after their incorporation into South Africa, court management has been described as "non-existent"

The figures show that some magistrates are overloaded but others have far too little work

In the Western Cape alone, it was found that more than 18 000 court hours a year were lost through mis-

management until recently, costing more than R14-million

The Western Cape has been the first province in South Africa to adopt the new more efficient court management system announced by Justice Minister Dullah Omar in March this year, but the rest of the country is still lagging

Bertus Jooste, Cape Town Chief Magistrate, told the Saturday Argus that since the new court management system had been implemented in the Western Cape, serious management shortcomings had been exposed

In some cases, magistrates were being paid a full salary of R136 000 a year, but were only doing 337 of the required 1 134 hours of judicial work.

This was in clear contradiction to other areas where a qualified magistrate earning the same money was forced to do 1 258 hours, as well as being responsible for the administration work of the court

Mr Jooste said that in the Cape

Town magisterial district there were currently 75 registered magistrates while only 63 were actually needed here

He also disclosed that in some outlying areas, administration officers "without any legal training were acting as magistrates and sentencing people to jail" when there were qualified magistrates available to do the work.

"(The new management system) is a revolutionary system which applies human, financial and logistical resources to the benefit of all and which is designed to get to grips with crime," Mr Jooste said.

"In the Western Cape, there is co-ordination between the Attorney-General, the Chief Magistrate's office and the Chief Director of Regional Administration.

"It is the first time in history that the administrative, judicial and prosecuting arms work within the same management system"

(202)

ARG 6/9/97



Under pressure Winnie Madikizela-Mandela is facing new speculation over her role in the murder of Soweto doctor Abu Baker Asvat

Asvat death: witness set to finger Winnie

TRC to hear evidence on murder

OWN CORRESPONDENT

Johannesburg - New evidence that Winnie Madikizela-Mandela may be linked to the murder of Abu-Baker Asvat, a medical doctor who was murdered at the height of the controversy surrounding the death of teenager Stompie Moekeetsi Seipei, is to be presented to the Truth and Reconciliation Commission.

The evidence is contained in a sworn affidavit by Katiza Cebekhulu, a former member of Mrs Madikizela-Mandela's United Mandela Football Club. The affidavit was made in Devon, England in July, 1995 while police were conducting a new investigation into the doctor's murder.

Mr Cebekhulu is expected to testify before the TRC later this year. Since May 1994, he has been in a safe-house in Britain under the custodianship of Emma Nicholson, a former British human rights MP and now a member of the House of Lords.

Mrs Madikizela-Mandela has been subpoenaed to answer questions before a TRC investigative unit inquiry on September 25 and 26. She has told the media that she wants to do so in open session, rather than in camera. But her lawyers have not yet made an official request to this effect to the TRC, and there is some doubt whether the TRC will agree to an open hearing at this stage.

It is expected that she will be questioned on the deaths of Stompie and several other youths as well as the mysterious death of Dr Asvat.

Dr Asvat, once a close friend of Mrs Madikizela-Mandela, was murdered in his consulting rooms in Soweto on the afternoon of January 27, 1989 by two men who gained entry to his premises by posing as patients.

Dr Asvat was an executive member of the Azanian Peoples' Organisation (Azapo).
Two men - Thulani Nicholas Dlamini and

Zakhele Cyril Mbatha - were convicted of Dr Asvat's death in a controversial and brief trial on November 5, 1989. The two men were sentenced to death. Dlamini's sentence was later commuted to life imprisonment and Mbatha escaped the death sentence when hangings were suspended.

But Dr Asvat's family have never accepted the official version of the doctor's death.

In a statement made to police in 1989, Dlamini implicated Mrs Madikizela-Mandela in the murder of Dr Asvat and said that he was promised R20 000 for carrying out the murder. But the statement was never produced in court. Mbatha's statement, which was accepted by the court, did not implicate Mrs Madikizela-Mandela.

But Mr Cebekhulu, who was spirited out of the country before he could testify in Mrs Madikizela-Mandela's trial of assault and kidnapping charges in 1991, has repeatedly held that Dr Asvat was killed because he refused to give medical evidence to substantiate Mrs Mandela's claim that Mr Cebekhulu was raped by the Reverend Paul Veriyn, the Methodist Minister who ran the manse from which the Football Club kidnapped four youths on Mrs Madikizela-Mandela's instructions.

Mr Cebekhulu also maintains that Dr Asvat examined Stompie after he had been severely beaten by the football club members and found that he was close to death and should be admitted to hospital immediately.

Mr Cebekhulu also maintains in the affidavit that Mrs Madikizela-Mandela herself participated in the severe beating of Stompie after she realised that Dr Asvat would not corroborate her story that the boys had been kidnapped from the manse after Mr Cebekhulu had been raped by Mr Veriyn.

Mr Cebekhulu said that Mrs Madikizela-Mandela took him to Dr Asvat's consulting rooms on December 30 but the doctor refused to certify that he had been raped. On December 31, Dr Asvat had visited Mrs Madikizela-Mandela's house, on her instructions, to see Stompie.

"Mrs Mandela called for the doctor and Dr Asvat came," Mr Cebekhulu said. "He said that Stompie could die at any time and must go to hospital immediately. Mrs Mandela did not respond to the doctor's urgent demand. The doctor left. She stayed in the house all day. Late that night, and after the household had gone to bed, I heard steps, looked out and saw Mrs Mandela, carrying something in her hand which she lifted high and plunged down into a body that I identified as being Stompie."

He said that Mrs Madikizela-Mandela had tried again in January 1989 to persuade Dr Asvat to provide her with a medical report confirming the rape of Mr Cebekhulu but the doctor had repeatedly refused to do so.

"Mrs Mandela argued with the doctor but he would not give in," Mr Cebekhulu said.

He said Mrs Mandela had called two young men to her house in January and instructed them to show them the location of Dr Asvat's surgery.

"On January 27, 1989, Mrs Mandela received a telephone call and told the household that Dr Asvat was dead. All of us cried except for Mrs Mandela."

TRC sources confirmed that Dlamini, one of the men convicted of Dr Asvat's death, had not yet applied for amnesty but investigators were examining statements made by him in 1989 and 1995.

It is understood that Dlamini could still apply for amnesty and corroborate Mr Cebekhulu's evidence regarding the killing of Dr Asvat and the alleged role of Mrs Madikizela-Mandela in his death.

Dr Asvat was murdered the day before news of Stompie's death broke for the first time.

AKr 6/29/97

(252)

Row between NP, TRC must be settled says judge

ARLT 6/9/97
(252)

Call for Tutu's involvement

HIGH COURT REPORTER

The National Party and the Truth and Reconciliation Commission have failed to settle their differences by means of an out-of-court agreement, despite being urged by Cape Judge President Gerald Friedman to do so in the interests of national reconciliation.

The NP brought the High Court application for the disqualification of TRC deputy chairman Alex Boraine and for a declaration that TRC chairman Desmond Tutu had acted in a manner unbecoming his office, following comments they made at a press conference in May.

Before yesterday's proceedings began, Jeremy Gauntlett, SC, representing the TRC, read out a statement from the commission in which Archbishop Tutu said he did not mean to cause offence or mistrust.

The Archbishop referred to the press conference in which he and Dr Boraine criticised the NP leader FW de Klerk's claims that he had no personal knowledge of apartheid era's gross human rights abuses.

In the statement the Archbishop said he was sorry that, by his words, the NP should feel unfairly treated. Dr Boraine also identified himself with the sentiment, according to the statement.

Archbishop Tutu "reiterates that the TRC has not prejudged any issue relating to the NP, no finding on any submission or issues raised by it has yet been made by the TRC."



Desmond Tutu



Alex Boraine

The process leading to the publication of the Commission's final report had begun. Dr Boraine indicated in the statement that it was not the TRC's intention to comment publicly on the substance of

any of the submissions.

"This national endeavour cannot be allowed to be weakened or delayed by friction and mistrust, least of all does conflict of this kind belong in a court," said the statement.

Judge Friedman, who was on the bench with Mr Justice JG Fagan, urged the parties to reach a settlement.

"If this matter goes as far as a judgement, one party will technically be the winner and the other the loser, but I believe both parties will be the loser. Worse still, the country will be the main loser," said Judge Friedman.

He said the work of the Commission was almost complete and it would be very unfortunate if at this stage proceedings were to be jeopardised by the friction which had arisen.

"If it is possible for the parties to find common ground it will go a long way toward achieving reconciliation."

Judge Friedman adjourned to give the parties an opportunity to discuss a possible settlement, but after the lunch adjournment counsel for the NP said that while the party accepted the Archbishop's apology it was "unfortunately not possible to resolve all aspects of the dispute."

However, the possibility of a settlement was not completely discounted.

The NP believes that a possible resolution of the whole matter calls for Archbishop Tutu's personal involvement after his return (from the United States) which is believed to be within ten days.

Finally ... truth and honour for Biko

DAVID MACGREGOR

Grahamstown – After 20 years, the truth about the brutal beating and death of Black Consciousness leader Steve Biko at the hands of security policemen is expected to come to light next week.

In an ironic twist, a bronze statue honouring the contribution that Biko's untimely death made to speeding up the collapse of apartheid, will also be unveiled next week at a glittering function in East London.

Three hundred kilometres away in Port Elizabeth, five former security policemen who have applied for amnesty from the Truth and Reconciliation Commission for Biko's death, should be squirming in their seats as they open a two decade-old can of worms.

Biko's widow Ntsike said she would have to juggle her time between the TRC hearings and preparations for the statue's unveiling on Friday.

A bronze bust of Mr Biko will also be unveiled at his home in King Wilham's Town's Ginsberg Township

"I am very happy that Steve will at last get the recognition he deserves, but I am also worried I will not have time to fully attend the TRC hearings," Mrs Biko said this week

Convicted killer Lieutenant-Colonel Gideon Nieuwoudt, as well as Colonel Harold Snyman, Major Gerhardus Lotz, Warrant Officer Ruben Marx, Captain Daantjie Siebert and Warrant Officer Johan Benecke will testify to the TRC on Biko's interrogation and death

Lawyer François van der Merwe, representing eight former security policemen at the

amnesty hearing, dropped a political bombshell this week when he announced that the testimony would draw a direct line between the actions of the security forces and the former National Party government.

"Indirect and direct reference may be made to specific politicians as well as to the establishment.

"It is obvious these guys were acting to protect a system," he said

Mr Van der Merwe added that some of the policemen seeking amnesty for Biko's death wanted to meet his family to express their regrets

The final day of testimony will coincide with the 20th anniversary of Mr Biko's untimely death and the unveiling of the statue and bust

Hollywood stars Kevin Kline and Oscar-winner Denzel Washington, who acted in the *Cry Freedom* film on Biko, and contributed financially to the statue, are expected to rub shoulders with President Mandela and other VIPs at the East London City Hall

In another ironic twist, the infamous John Vorster Bridge, which Mr Biko crossed several times in the back of police vans en route to Fort Glamorgan Prison, will also be renamed in honour of the fallen hero

Sculptor, Naomi Jacobsen, 72, who spent three months crafting the impressive 2.2m statue, said this week it was one of the highlights of her career.

She said her work was unusual as it portrayed Biko with his shirt sleeves rolled up and dressed in jeans "The man in the street will be able to relate to the casual pose and dress of the statue" – ECN Weekend Service

SAT ARGUS 6/9/97

252

Cradock Four killers to tell all for amnesty

SAT ARGUS 6/9/97 (252)

PETER DICKSON

Grahamstown - "It is between us - nobody has to know about this except ourselves," the security police chief is alleged to have said as the killers melted into the Eastern Cape night and headed north

The charred and mutilated bodies found the next morning, and which became known as those of the "Cradock Four" became one of the anti-apartheid struggle's greatest murder mysteries

In Port Elizabeth next month, after one of them has also told of his role in the fatal interrogation of Steve Biko, the men will ask the Truth and Reconciliation Commission for amnesty - and the widows, who still burn with anger after 12 years - for forgiveness

In May this year, one of those men, a sobbing Colonel Eric Taylor, wanted to be forgiven when he met them for 15 minutes at a Port Elizabeth church

On June 27, 1985 he had been excited to be chosen for the murder mission and cared nothing for the men in the back of the car whose eyes he could not meet

Since then, he told the widows of United Democratic Front activists Matthew Goniwe, Fort Calata, Sparrow Mkhonto and Sicelo Mhlauli, that he had read Nelson Mandela's *Long Walk to*

Freedom and watched the film *Mississippi Burning*

Colonel Taylor added he had been divorced after suspicion of involvement in the killings, was facing a second divorce, and was ignored by his teenage sons. He thus wanted to be forgiven

Nomonde Calata said she wanted to tell him "You have teased our grief for 12 years - and you think you can reconcile in 15 minutes?"

Fort Calata's fingers were cut off after he was shot in the back of the head before burning, and then the destruction of his file

Years later, Mkhonto's ID book, which he carried at all times, would be found by his widow - tossed into the outside toilet at her house in an unmarked envelope

Colonel Taylor's fellow amnesty applicants are Harold Snyman - Port Elizabeth's ex-security chief who has also applied for amnesty for Biko's killing - police superintendent Gerhardus Lotz, Mechem manager Sakkie van Zyl, and ex-SADF general Nic van Rensburg

So what will the amnesty committee be told from October 1 to 6?

They will hear how Colonel Taylor and five other Port Elizabeth security policemen allegedly waited in two cars at the top of the Olifantshoek Pass on the

Port Elizabeth-Cradock road on June 27, 1985.

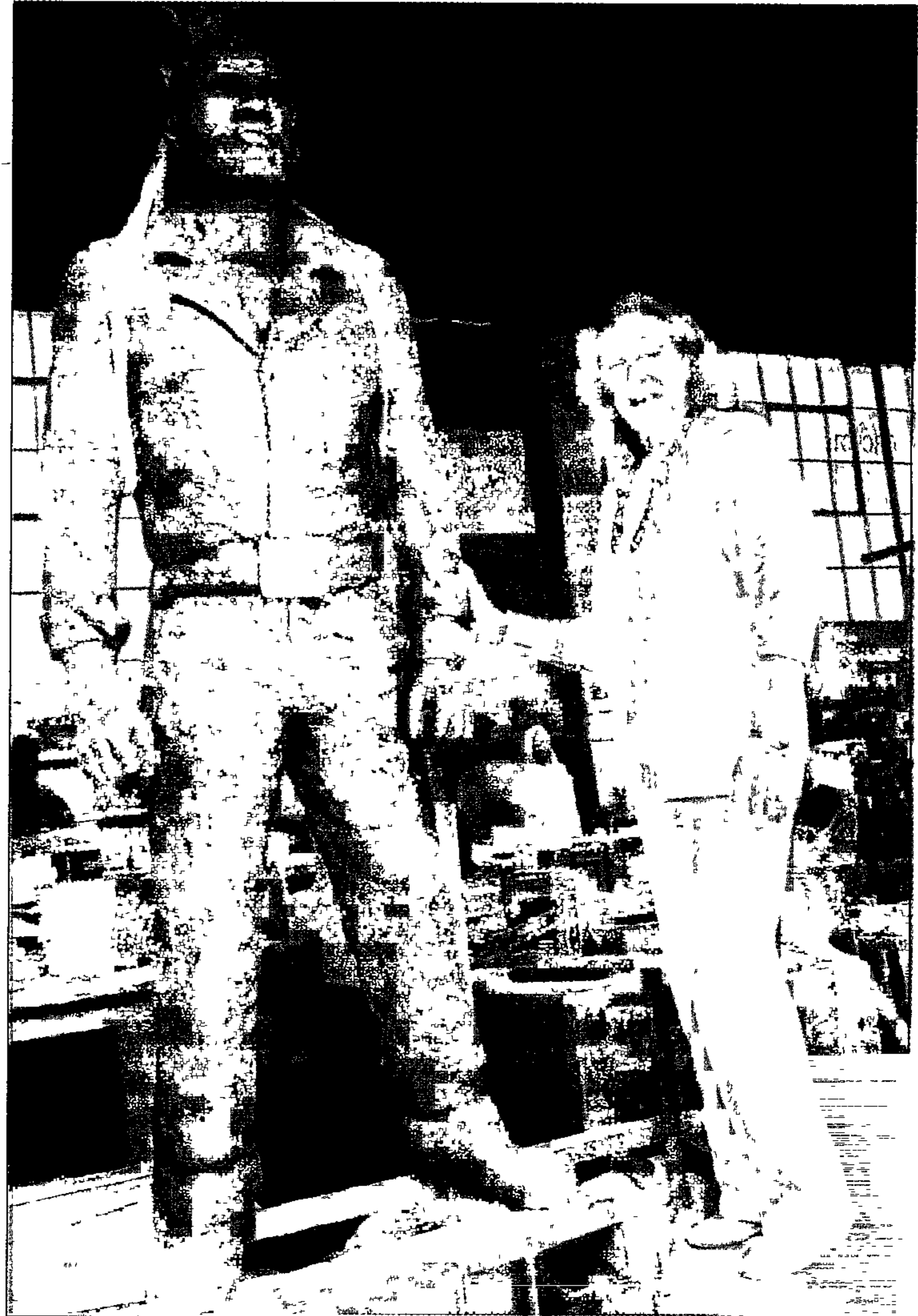
Having tapped Goniwe's phone, they knew he, Calata, Mkhonto and Mhlauli were on their way home from a Port Elizabeth meeting

At 10pm, they spotted Goniwe's Honda Ballade, followed, and overtook it to form a roadblock near the tiny farming hamlet of Middleton. The Cradock Four, believing they were to be detained again, were handcuffed and driven back to Port Elizabeth

At Bluewater Bay on the city's outskirts, where the sea breeze is soured by the stench of sewage, they stopped in the scrubland darkness and the helpless, handcuffed men allegedly were taken one by one from the cars to be clubbed, stabbed or shot

Mkhonto was shot first. For teacher Sicelo Mhlauli, the big man from Oudtshoorn, the iron bar and blade took a little longer as he fought for his life. Then Calata. Goniwe was the last to die before the bodies were mutilated. Petrol was poured over them and Mr Goniwe's car and then set alight

The killers allegedly returned to their headquarters at Port Elizabeth's downtown Sanlam Building to destroy the four's files - and make a pact of silence - ECN Weekend Service



Celebrated leader: Naomi Jacobsen and her monument to Steve Biko which will be unveiled by President Mandela

PE activist assaulted under protection of state of emergency, Nieuwoudt tells TRC

ARG 8/9/97 (252)

JOHN YELD

ON THE TRUTH COMMISSION

Port Elizabeth - Notorious Eastern Cape security policeman Gideon Nieuwoudt told the Truth Commission's amnesty committee here today that the 1985 state of emergency regulations gave him "fairly wide protection".

This was why he felt able to assault well-known Eastern Cape activist Mkuseli Jack with a black plastic sjambok while interrogating him in his office in August 1985.

Nieuwoudt, who is on bail pending an appeal against his 20-year jail sentence for his role in the murder of

three black security policemen and an informer in the "Motherwell" car-bombing incident, is applying for amnesty for 10 murders and for assaulting Mr Jack.

At the time, Mr Jack was president of the Port Elizabeth Youth Congress.

In a statement to the amnesty committee today, Nieuwoudt claimed Mr Jack had been the co-ordinator of the consumer boycott in Port Elizabeth's black townships at the time.

"Mkuseli Jack played an active role in mobilising and politicising the black youth - the so-called 'Amabutho'." Nieuwoudt also claimed Mr Jack had been responsible for setting up underground struc-

tures by the Amabutho and by trained Umkhonto weSizwe soldiers.

Mr Jack had been arrested in terms of the state of emergency, and 10 days later Nieuwoudt had taken him to the regional police headquarters in Port Elizabeth for questioning. Nieuwoudt said Mr Jack had become confrontational and tense when allegations were put to him.

"I then grabbed a black plastic sjambok and gave him several blows on his body and legs. He then subsided and I could see that he was in considerable pain. I ended the interrogation and he was taken back to St Albans Prison where he received medical attention."

TRC told: FW sanctioned Umtata raid

(252)
Sowetan 9/9/97

United Democratic Front activist assaulted because he was 'rebellious and stubborn'

By Simon Zwane

FORMER PRESIDENT FW de Klerk personally sanctioned the 1993 Umtata raid in which five children were killed in the Mpendulo household, the Truth and Reconciliation Commission's Amnesty Committee was told in Port Elizabeth yesterday.

Eastern Cape security policeman Gideon Niewoudt told the committee, sitting in New Brighton, that De Klerk had not apologised for implicating him in the attack which was carried out by the South African Defence Force.

Niewoudt also said that in the apartheid era police were above the law.

"As long as it served the interest of the National Party and the government, it would have been excusable to break the law," he said.

Niewoudt appeared before the committee seeking amnesty for assaulting former United Democratic Front activist Mr Mkhuseh Jack, in 1985.

He has also applied for amnesty for the killing of 10 other people, including Black Consciousness leader Steven Bantu Biko, and UDF leaders such as Matthew Goniwe, Champion Galela and Qaqawli Godolozu.

The people of New Brighton braved cold and wet weather to hear their former tormentor speak.

Jack approached Niewoudt during the lunch break and smilingly shook his hand. He is not opposing the amnesty application.

In the audience was controversial alleged spy, Mr Patrick Dhlolongwane, who claimed that Niewoudt instructed him to bomb Jack's house in Zwide.

Niewoudt denied the allegation. As far as he was aware, Jack stayed with his uncle in New Brighton at the time.

Big fish

He admitted, however, that he had assaulted Jack with a plastic sjambok because he was "rebellious and stubborn".

Niewoudt told the committee that Jack was one of the "big fish" arrested during the state of emergency in 1985.

The aim of Jack's arrest was to bring an end to a consumer boycott in Port Elizabeth townships and to bring stability to the region.

He maintained that he was alone when he assaulted Jack.

However, Jack's legal representative, Advocate Mpumelelo Nyoka, disputed this.

Court's job is to jealously guard supremacy of national constitution

By Lourens Ackermann

Last Tuesday the Constitutional Court gave judgment on the certification of the Western Cape's constitution

Individual provinces' desire to draw up their own constitutions are interesting and important for two reasons

First, they express that province's right and need to govern themselves according to their own rules and grant themselves some autonomy by which they can express their own character and qualities

Second, it requires a rather important exercise by the Constitutional Court, that is, to certify these provincial constitutions.

So while there is a certain degree

of autonomy, the provincial constitution must bow to the superior content of the national constitution

For example a province cannot, by using its own constitution, give itself greater powers than the powers granted to it by the national constitution This was exactly what the provincial constitution of Kwazulu Natal did in the first of these certification cases before the court and therefore the court could not, and did not, certify it

The Kwazulu Natal constitution gave itself powers, something which it was not able to do. The provinces receive power, they are not the source of power Mr Justice Arthur Chaskalson said that unlike their counterparts in the US, the provinces in South Africa are not

sovereign states They were created by the constitution and have only those powers that the constitution gives them

In addition, the Kwazulu Natal constitution included a clause which said that any of its provisions which were inconsistent with the 1993 constitution (the interim constitution) were invalid.

This was a disingenuous way of arguing that there could be no inconsistency between the provincial constitution and the interim constitution because any inconsistency in the provincial constitution was automatically invalid in terms of the inconsistency clauses. Therefore the rest of the provincial constitution, as it stood, was valid

The court held that this clause

was being used as a method to escape the certification process, and it could not do this

The court said that a province is only given powers to make a constitution which can be tested objectively by the Constitutional Court against the national constitution

A province is given no constitutional power to make a constitution which effectively avoids that process of testing

The court also rejected the suggestive conditions, certain clauses in the provincial constitution which would only come into operation at a later date. Certification had to be of a text that had been finished and adopted, not one which might still be adopted or changed based on decisions still to be taken

national constitution

FOCUS ON THE

CONSTITUTIONAL COURT

20 APRIL 1997

Similarly, the Western Cape constitution was not certified on "limited grounds of inconsistency"

Both cases illustrate the important principles of the supremacy of the national constitution and the role which the Constitutional Court plays in protecting that supremacy

It sits like a watchdog at a sacred entrance It must be obedient only to its master, the constitution, and no midnight visitors, burglars, and intrusions of any kind may be made. It is the gatekeeper. And the court, as gatekeeper, must develop its own form of jealous jurisprudence to do its guard job properly

Whether it denies certification to the Western Cape and its constitution on "limited grounds of inconsistency", or to Kwazulu Natal's con-

stitution on the grounds of usurping national sovereignty, the court is, strictly speaking, doing no more than upholding the constitution.

This idea is often lost in the technical wranglings, which such cases seem to thrive on, and one can be forgiven for emerging stultified from the detailed arguments

Important work does not have to be exciting work and it may be the public view that these certifications are just more bureaucratising. But they would be wrong, and an opportunity of seeing the workings of a new democracy would have been lost

Lourens Ackermann works for the Constitutional Information Programme, a project of Lawyers for Human Rights

Apartheid police 'could break law'

By ROBERT BRAND

Port Elizabeth—During the apartheid years, policemen could break the law if it was in the interests of the National Party government, former security policeman Gideon Nieuwoudt told the Truth and Reconciliation Commission yesterday

Nieuwoudt, one of several policemen who have confessed to involvement in the death of Steve Biko and other anti-apartheid activists, said policemen were recruited to the security branch on the strength of their support for the NP.

A security policeman who criticised the government would be immediately transferred to a different branch of the police, and "his career would be over," Nieuwoudt told the TRC's amnesty committee

He was testifying in support of his own amnesty application for an assault on Eastern Cape activist Mkhusele Jack in 1985.

Nieuwoudt has also applied

for amnesty for the assault that led to the death of Biko, the murder of five Eastern Cape activists, and the murder of three black policemen and an informer who turned against their masters

He is on bail pending an appeal against a 20-year sentence for the murder of the three policeman and the informer, the so-called Motherwell murders.

Nieuwoudt admitted hitting Jack with a sjambok during interrogation on one occasion, but denied assaulting and torturing him several times over a period of almost 10 years.

Jack, then president of the Port Elizabeth Youth Congress and an instigator of a consumer boycott in the area, had been arrested soon after the declaration of the state of emergency

While interrogating Jack about his activities and connections with the ANC's military wing Umkhonto weSizwe, Nieuwoudt said, he had hit him with a police-issue plastic sjambok for about four or five minutes.

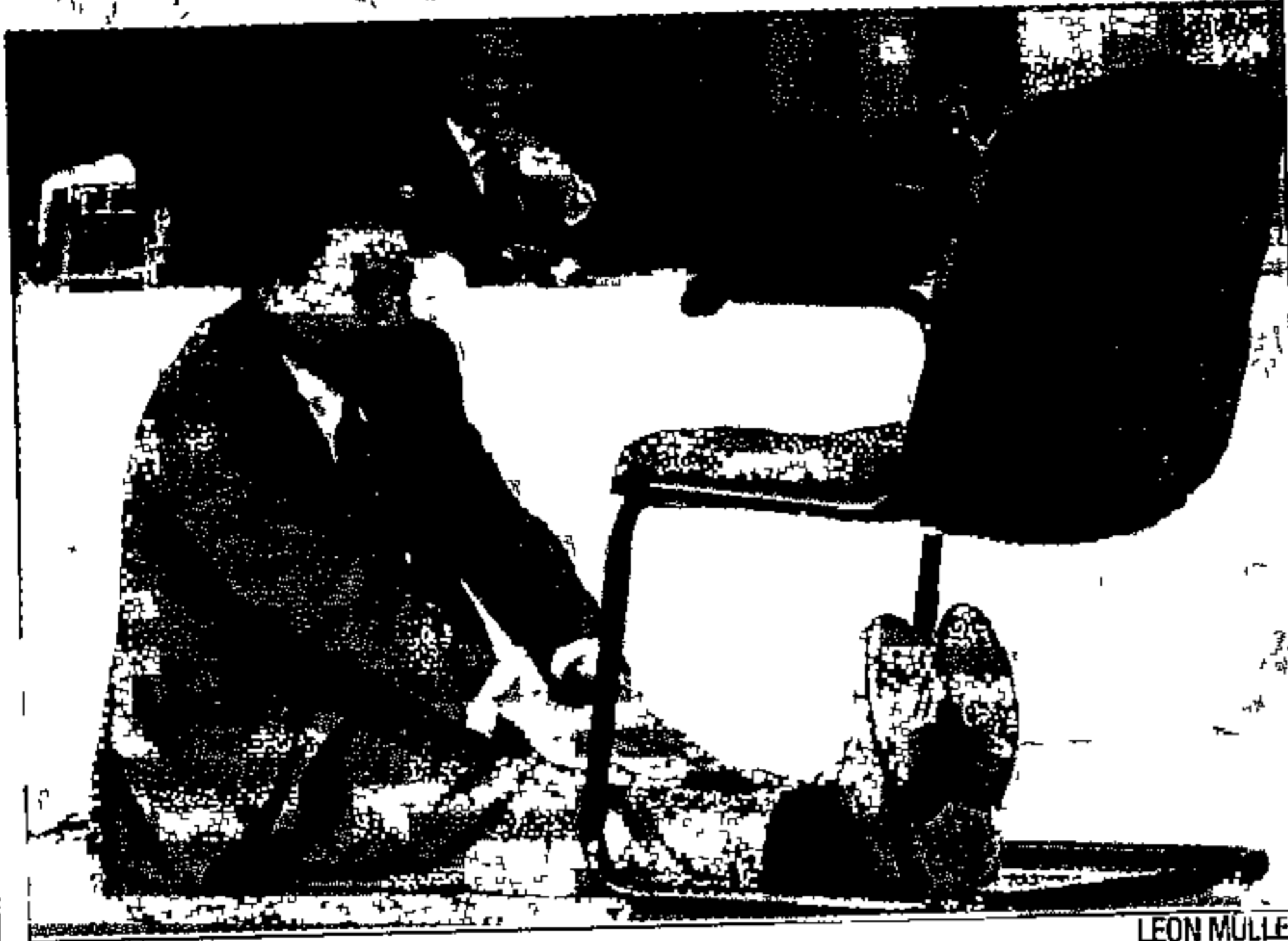
(52)
"He was being stubborn and confrontational. I didn't do it in anger. He wouldn't talk. The blows caused a lot of pain. There were welts all over him but no open wounds." He had beaten Jack to break his resistance and humiliate him. "I treated him like a child by giving him a hiding"

Nieuwoudt said Jack still refused to talk after the beating, but later agreed to call off the consumer boycott if he and other United Democratic Front leaders were released.

Jack, now a millionaire businessman in Port Elizabeth, disputed Nieuwoudt's story.

He said Nieuwoudt had detained and assaulted and tortured him on at least three other occasions between 1979 and 1987. He also said Nieuwoudt was trying to protect others who took part in the assaults by refusing to name them before the TRC.

But Jack said although Nieuwoudt was "mocking the process", he would not oppose his amnesty application.



LEON MULLER

Painful display: Mkuseli Jack shows TRC officials how he was tortured

(252)
**Breaking law was
 ARG 9/9/97
 excusable - ex-cop**

JOHN YELD
 ON THE TRUTH COMMISSION

Port Elizabeth - Former Eastern Cape security policeman Gideon Nieuwoudt has told the Truth Commission it was excusable to break the law if this served the interests of the then National Party government.

He also said that when police committed offences - such as causing the death in detention of black consciousness leader Steve Biko - the incidents were covered up when brought to the attention of senior officers

Nieuwoudt, who is on bail pending an appeal against a 20-year jail sentence for his role in the 1989 Motherwell car-bomb murder of three security police colleagues and an informer, was testifying here yesterday in his amnesty application for assaulting Eastern Cape activist Mkuseli Jack with a plastic



Testifying: Gideon Nieuwoudt

sjambok in 1985

He is also applying for amnesty, with other former security policemen, for 10 murders and assault and culpable homicide in the Biko case

Nieuwoudt, a lieutenant in 1985 who retired on health grounds in 1995 with the rank of lieutenant-colonel, told the commission's amnesty committee he hit Mr Jack "maybe six or eight" times with the sjambok and that the assault lasted "three, four, five minutes"

Mr Jack contested the claim, saying he had been "terrorised and tortured" by Nieuwoudt several times in various places between 1979 and 1985. This had included electrodes being placed on his fingers

Nieuwoudt, responding to questions by advocate Mokotedi Mpshe for the amnesty committee, said he joined the NP in 1975 but was no longer a member

Big fish 'knew the risks'

Port Elizabeth. - Mkuseli Jack was one of the "big fish" political activists in the Eastern Cape in the 1980s, and at the top of the security police wanted list.

Today a successful businessman, Mr Jack understood all too well the risks - and potential rewards - of his political activities, which included the presidency of the Port Elizabeth Youth Congress

Mr Jack also organised a city-wide consumer boycott

He told the Truth Commission's amnesty committee that early in his political career, security policeman Gideon Nieuwoudt accosted him and gave him "four choices" to work for him as an informer, to leave the country, to be imprisoned on Robben Island, or to face death

"The essence of his advice was that if I stayed out of politics I would never see him again

"And if I was in politics, my life would be hell"

Mr Jack said he was not opposing Nieuwoudt's amnesty application for the assault on him, partly because he understood why the former security policeman had acted as he had

"I do not quarrel with their methods. I understood the rules, it was war, and I was prepared to take the consequences"

But he had been deeply disappointed by Nieuwoudt's not testifying about "his partners in crime" - the other policemen involved

At the end of the morning's session yesterday, Mr Jack shook hands with Nieuwoudt, and they spoke amicably for a few moments

Nieuwoudt says his torture stopped a consumer boycott

PORT ELIZABETH — Wealthy businessman and former political activist Mkhuseli Jack agreed to stop a consumer boycott in Port Elizabeth in 1985 if police released him from custody, former police colonel Gideon Nieuwoudt told the truth commission's amnesty committee yesterday.

Jack kept his word, suspending the boycott shortly after his release from St Albans prison in November 1985, Nieuwoudt said. Nieuwoudt is seeking amnesty for torturing Jack in detention and for the deaths of 10 others, including black consciousness leader Steve Biko. He is one of 15 former security policemen who have applied for amnesty for some of the country's most notorious unsolved political killings.

Nieuwoudt, head of the security police's intelligence section in Port Elizabeth when Jack was detained said: "I cannot remember who gave me the instruction to detain Jack. His detention was necessary... for the maintenance of public order and to end the state of emergency." As president of the Port Elizabeth Youth Congress, an affiliate of the United Democratic Front, Jack played a key role in mobilising the black youth and organising consumer boycotts and worker stayaways, Nieuwoudt said.

On August 12 Jack was taken to his office, where Nieuwoudt questioned him on his involvement in boycotts and his association with Umkhonto we Sizwe members. "He was very hard-headed... I took a black, plastic sjambok and gave him several lashes on his body and legs." Jack returned to St Albans where he was treated by Dr Wendy Orr, a member of the truth commission. Nieuwoudt believed his use of torture was justified.

"I believed it would be in the national interest and the interest of stability and peace in the Eastern Cape to end the consumer boycott as speedily as possible." Earlier Nieuwoudt, on bail pending appeal after he was sentenced in June last year to 20 years' imprisonment for his part in the 1989 Motherwell bomb blast that killed three colleagues and a police informer, told the committee that during periods of unrest "police acted above the law". He believed he was "protected by the emergency regulations and had wide powers that enabled me to act on my own initiative without reporting to my superiors". Security police did not hesitate to commit crimes to protect the National Party (NP) government from communist expansionism. His first priority was to protect the government.

Jack shook hands with Nieuwoudt during a recess yesterday. He told the committee he had lived in hope of the day when justice would be done. "I had hoped that Deon Nieuwoudt would come here today to admit that the things he and other policemen did was wrong. I hoped he would tell us who the other men were. Who gave him his orders."

Jack's lawyer, Bond Nyoka, said his client would argue that Nieuwoudt's statement that he had tortured the activist alone was false. Jack would say that at least two other policemen were present at the time, Nyoka said. — Sapa.



Port Elizabeth businessman and former political activist Mkhuseli Jack listens to former police colonel Gideon Nieuwoudt's evidence to the truth commission's amnesty committee yesterday.

Land commission budget cuts 'affecting handling of claims'

CAPE TOWN — Land claims commissioners yesterday lashed out at government and the land affairs department for reducing the budget of the Commission for the Restitution of Land Rights, thereby severely impairing its ability to function in the face of a mountain of land claims.

Speaking at a meeting of Parliament's land affairs committee, chief commissioner Joe Serame said that cuts in the commissioner's budget was one of the reasons for the slow rate of delivery, which had seen little more than a handful of the thousands of claims processed.

Councillor for KwaZulu-Natal Cheryl Walker said there was concern about the slow pace which had seen only one case in KwaZulu/Natal referred to the land claims court out of the 5 979 received, but this was not only due to institutional failure to cope with the volume. Legal requirements were time-consuming and staffing levels were also too low.

The budget was inadequate and the commission would not be able to pay salaries and to function. Land affairs director-general Geoff Budlender said the budgets were not adequate and stressed that a review of the budgets for the department's functions was already under way. Sapa reported that the commission's director, Lucas Mlamanda, said the commission was originally allocated R6,9m, and later given an additional R3m. However, he had realised in July this year that the commission would need a total of R19m to continue its operations to March next year, the end of the financial year. Serame earlier told the committee that his five regional commissioners agreed that the April 1 next year cut-off date for lodging land restitution claims should be extended, and that an additional year would be a fair period.

BB 9/9/97

Five will claim they accidentally killed Steve Biko

Star 10/9/97

(252)

By Robert Brand

Port Elizabeth - Five former security policemen who have applied for amnesty for the death of Steve Biko were expected to claim today that they accidentally killed the Black Consciousness Movement founder.

The Star understands they will claim they did not intend killing Biko, but fatally injured him during an assault sparked by his "arrogant" attitude

They will also admit making false statements about the assault and lying to the inquest into Biko's death, which at the time absolved them of criminal responsibility

Biko died of brain damage allegedly sustained during the interrogation

Police claimed his head had been knocked against a wall in a struggle which ensued after

he had attacked his interrogators. An inquest absolved the police of criminal responsibility in his death

The five former policemen, who include convicted murderer Gideon Nieuwoudt, want amnesty for assault and culpable homicide. The Biko family, which is opposing amnesty for the policemen, will be represented at the hearing by advocate George Bizos SC

Biko's son Nkosinathi (26) said he believed his father's death was "an interrogation gone wrong". "I'm not sure if there were any instructions from above to kill my father," he told AFP this week

"What happened was in the realm of the criminal. It got out of hand. It was an interrogation gone wrong"

People started lining up outside the Centenary Hall in Port Elizabeth's New Brighton

township early today to attend the policemen's amnesty hearing. Harold Snyman (69), who was in charge of the team which interrogated Biko before his death, was expected to be the first to testify

The other applicants are Daantjie Siebert, Jacobus Bennecke and Ruben Marx, the four-member interrogation team which assaulted Biko

A panel of the Truth and Reconciliation Commission's amnesty committee headed by Mr Justice Hassen Mall is hearing the applications

Bizos is expected to argue the killers did not have a political motive

The applicants' attorney, Francois van der Merwe, yesterday said the men might seek a meeting with the Biko family after the amnesty hearing to ask their forgiveness

"I advised them not to meet the family during the amnesty

proceedings. But you can't rule out the possibility of a meeting afterwards"

Sources close to the Biko family said they were shocked by the fact that the men deny having had the intention to kill him

Donald Woods, the former Daily Dispatch editor who was a close friend of Biko, was quoted this morning as saying the applicants' story is a "farce"

The Biko memorial committee will host a corporate dinner in honour of Biko at the Parktonian Hotel in Braamfontein, Johannesburg, today between 7pm and 11pm, reports Sapa

Azapo spokesman David Lebethe said the charge for the dinner was R300 per person, and seats were limited

Bookings can be made by phoning Mbulelo Ketye at (011) 988-1255/3925

Cebekhulu tells BBC he saw Winnie stab Stompie

Star 10/9/97 (252)

Witness claims Madikizela-Mandela plunged something shiny into teenager after he refused to say he was raped by priest

By **TYRONE SEALE**
London

In a BBC television documentary broadcast here last night, former Mandela United Football Club member Katiza Cebekhulu gave details of how he allegedly saw Winnie Madikizela-Mandela beat and stab 14-year-old activist Stompie Seipei at her Soweto home.

In the documentary Cebekhulu claimed his discovery of photographs showing Madikizela-Mandela and her one-time lawyer lover Dali Mpfu naked in bed led to him being beaten and abducted.

In the year Cebekhulu disappeared, Madikizela-Mandela was fined R15 000 for kidnapping and being an accessory to assault.

The conviction arose from the abduction and killing of Seipei who had been a member of the football club everybody knew provided bodyguards for Winnie Madikizela-Mandela, rather than entertainment for soccer fans.

Her chief bodyguard Jerry Richardson was sentenced to death, later commuted to life imprisonment for his role.

Cebekhulu, who had decided to testify against Madikizela-Mandela, was allegedly abducted by ANC security personnel and taken to a prison in Lusaka, Zambia.

This is where, in 1994, British MP Emma Nicholson was an election observer. A BBC producer who had followed the Seipei story

tipped Nicholson off about Cebekhulu languishing in prison.

Nicholson approached Zambian President Frederick Chiluba, who promised to investigate. Cebekhulu was traced and Chiluba decided he should be freed, but not returned to the ANC.

In the documentary, former Zambian President Kenneth Kaunda confirmed the late Oliver Tambo had asked him whether Cebekhulu could be held in Lusaka.

The BBC last night quoted a statement from President Mandela's office, saying he had not authorised the kidnapping.

The documentary outlined his evidence to the Truth and Reconciliation Commission, telling how he fled to Johannesburg in 1989 to escape violence in KwaZulu Natal.

He said he needed accommodation and Madikizela-Mandela referred him to clergyman Paul Verryn, known to be supported by anti-apartheid groups outside the country, and whom Madikizela-Mandela allegedly envied.

He said she told him to share a bed with the priest and then claim he had been raped - to discredit the priest.

He claims he obeyed her orders which led to Stompie and other youngsters being summoned by Madikizela-Mandela who questioned them about their practice of sleeping at the priest's home.

"You let him (Verryn) f... you like dogs," Madikizela-Mandela allegedly told the youths.

This was followed by Stompie's beating. Cebekhulu said he had, again obeying Madikizela-Mandela's orders, taken part in the beating.

This led to his being charged in connection with Stompie's death, and he was out on bail at the time of his abduction. Cebekhulu said he watched as Madikizela-Mandela and Jerry Richardson whipped Stompie before hoisting him and dropping him to the floor several times.

"They hit him on the back of the head till it became soft, and his eyes were small," he claimed.

Cebekhulu said the following day, Madikizela-Mandela sought a motive for her actions, and to find independent support for them.

This, Cebekhulu claims, she did by taking him to the Soweto surgery of Dr Abu-Baker Asvat, so he could claim he had been raped.

Cebekhulu said Madikizela-Mandela was angry when Asvat said he could find no evidence of sodomy. The doctor recorded this on Cebekhulu's medical file, which was stamped December 30.

The following day, Cebekhulu said, he again heard Stompie crying at Mandela's home where he had been kept as Madikizela-Mandela refused to take him to hospital. "I heard these noises of someone crying. I saw Mrs Mandela near the jacuzzi, with something shining, like a knife."

He said he saw her stab Stompie twice. - Star Foreign Service



Winnie fights back over murder claims

Accusation that she paid to have Asvat killed 'a depravity of cruel kind'

STAFF REPORTERS

ANC Women's League president Winnie Madikizela-Mandela has hit back at renewed accusations about her alleged involvement in murders of anti-apartheid activists.

A book launched yesterday and an amnesty application by a prisoner contain allegations that Madikizela-Mandela ordered the 1989 murders of prominent Soweto physician Abu Baker Asvat and teenage activist Stompie Seipei.

At a press conference at the ANC's Johannesburg headquarters, Madikizela-Mandela yesterday labelled as "depravity of a cruel kind" claims by one of Asvat's killers, Thulani Nicholas Dlamini, that she had hired him and an accomplice to kill the doctor for R20 000.

She added that Asvat who was also Azapo's health secretary at the time, was a "personal friend, family doctor and a man of deep compassion".

Madikizela-Mandela also addressed shock claims in a book launched yesterday in Cape Town, by British journalist Eyed Bridgland, titled *Katiza's Journey Beneath the Surface of South Africa's Shame*.

Katiza Cebekhulu, a key State witness in her 1991 trial into the kidnapping of Seipei, was quoted as saying Madikizela-Mandela stabbed the 14-



ANDREW INGRAM

year-old twice with a sharp object the day he died.

Madikizela-Mandela asked "Where is Cebekhulu? Is the State machinery unable to get hold of this unsophisticated person so that he tells the truth? He must come home to stand trial, and to say who helped him leave the country and why," she urged.

Madikizela-Mandela said she had watched in painful silence her character being "butchered" in the media. Repeating that she intended to testify before the TRC she urged, "I beg that it be done in public. I beg that these issues be tested by the vigilance of the public."

since he fled in 1991, concluded that Madikizela-Mandela had led to the court about her ally.

Yesterday Nicholson - who is in the country to speak to the TRC about allegations against Madikizela-Mandela and to promote Cebekhulu's book - said all efforts to speak to the Government about an inquiry into Madikizela-Mandela's alleged involvement in the murder of township children had been suppressed by officials.

"Cebekhulu cannot come to South Africa as there is an outstanding warrant for his arrest for not appearing at Winnie's trial," Nicholson said.

ANC legal affairs head and Mpumalanga Premier Matthews Phosa who accompanied Madikizela-Mandela at the press conference, said the TRC was the right forum to discuss all allegations, adding that the ANC was alarmed by "this trial by certain quarters" on the basis of innuendoes.

Mandela said the allegations had hurt her severely and her family. "I have seen confused panic in my grandchildren's tearful eyes as they attempt to work out whether I am the demon I'm portrayed to be when will I enjoy the respect that is accorded everyone?"

Witness speaks on BBC document
Page 5

Mandela strongly denies involvement in abduction and imprisonment

President Mandela said last night he had not arranged the abduction and imprisonment in Zambia of a key witness in the kidnapping trial of his former wife, Winnie Madikizela-Mandela.

He was reacting to sensational allegations in a book written by British journalist

Fred Bridgland based on interviews with the witness Katiza Cebekhulu, and interviews with former Zambian president Kenneth Kaunda.

According to the book Kaunda implicated Mandela in Cebekhulu's 1991 abduction and imprisonment without trial in Zambia.

The president's office said last night "in response to media inquiries and for the record the president wishes to make it clear that he did not arrange for Mr Cebekhulu to be taken out of South Africa or to be incarcerated in Zambia."

abduction indicated that Kaunda himself believed Mandela might have been the master mind the book said.

Bridgland who requested a television interview with Kaunda to corroborate the written documents writes "Kaunda recalled the Cebekhulu case, and was asked whether Nelson

Mandela had told him why he 'wanted Katiza Cebekhulu here and out of South Africa'."

Kaunda replied, "He didn't give me any reason at all. What I did was to work on trust."

He said he had received Mandela's message from the ANC's leader in exile at the time, Oliver Tambo - Sapa

TOBACCO IS ADDICTIVE

16 mg tar, 1.3 mg nicotine. As per Government agreed method

Biko's death sparked top-level cover-up

Ex-security cop says BPC leader manacled after fatal blow

Argus 10/9/97 252

Port Elizabeth — Security police carried out a high-level cover-up of the facts of Steve Biko's death in detention in 1977 because it was potentially a "very big embarrassment" to them and the apartheid government, the Truth Commission heard today.

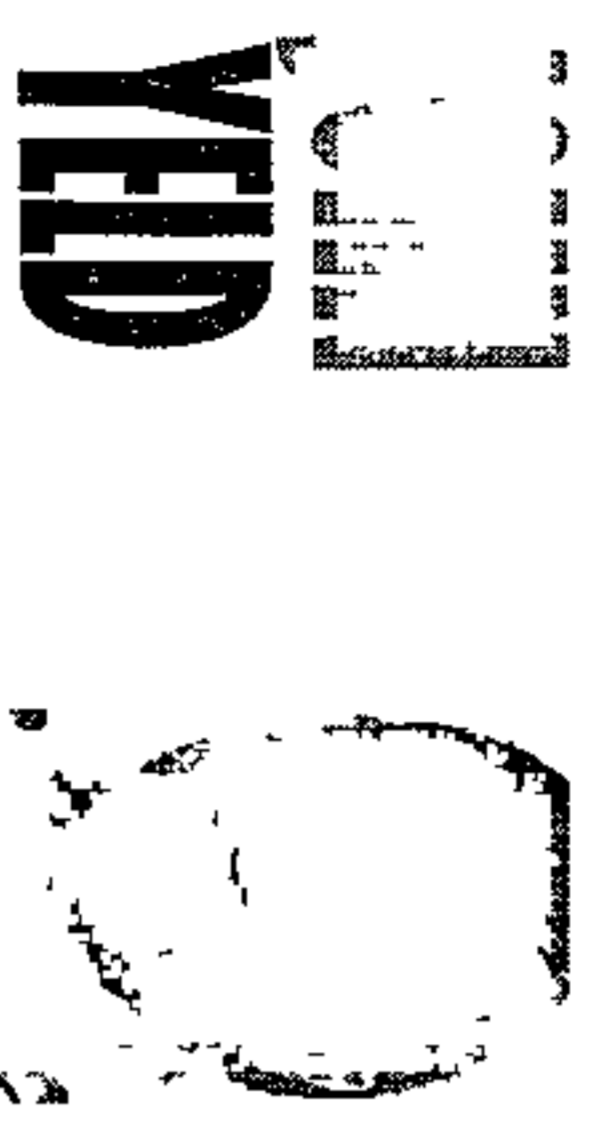
But today's version of the interrogation and subsequent death of the black consciousness leader, presented to the commission's amnesty committee by five former security policemen, is not substantially different from police testimony during the official inquest in 1978.

The policemen involved still claim Biko's death was an accident. However, the key difference is that they had previously concealed the fact that Biko was left manacled to a security gate for nearly 24 hours before a doctor was called to attend to him after a blow to his head that eventually proved fatal.

For several hours during that time, he was kept standing, manacled to the security gate hand-and-foot. Former Port Elizabeth security police Harold Snyman, Daniel Siebert, Jacobus Beneke, Ruben Marx and Gideon Nieuwoudt are applying for amnesty for culpable homicide and assault in relation to Biko.

He died in a Pretoria police cell on September 12, 1977, from a heavy brain haemorrhage from head injuries sustained while being interrogated by the five policemen in their Sanlam Building headquarters in Port Elizabeth a week earlier.

At the inquest, Mr Snyman, then a major who led the interrogators,



ON THE TRUTH COMMISSION

claimed Biko had rushed at them "wild-eyed" in a fury after being confronted with details of his allegedly treasonous activities as a leader of the Black People's Convention.

In the ensuing scuffle, Biko had sustained a bump on the head accidentally, the inquest court heard.

Today, Mr Snyman repeated to the amnesty committee that Biko's death had been accidental. He said the blow to the head came during a fierce struggle after one of the interrogating team, Captain Siebert, refused to allow Biko to sit down on a chair soon after the start of interrogation.

Biko had been brought handcuffed to the interrogation in Room 621, Mr Snyman said. He had ordered the handcuffs to be removed.

Biko had been "bad-tempered, challenging and aggressive" and had refused to answer questions, although he had communicated with his interrogators.

He had attempted several times to sit down on a chair, but Captain Siebert had ordered him "in no uncertain terms" to remain standing.

Later Captain Siebert grabbed Biko and yanked him off the chair,



In memory: Azapo project leader Zikile Sinama stands at the room in Port Elizabeth where Steve Biko was interrogated

and "Biko clearly lost his temper and pushed the chair hard in the direction of Captain Siebert".

Captain Siebert and Warrant Officer Beneke then became involved in a fight with Biko in an attempt to control him, Major Snyman said.

"At this stage he was again manacled with handcuffs and leg irons. Both the handcuffs and the leg irons were attached to the security gate in front of the corridor door."

Major Snyman said it was obvious to them that further interrogation would be fruitless, and he could hear that Biko's speech was impaired and he was slurring. However, he was unsure whether Biko had been injured or was shamming to avoid further interrogation. "I therefore ordered that he should be kept manacled in order to break his resistance."

Major Snyman said he had then gone to report to his superior, Colonel P J Goosen, who had taken charge, and he had not been involved with Biko after that.

On the Saturday after Biko's death, Colonel Goosen had ordered all the security policemen who had taken part in the interrogation to a meeting in his office.

"During this meeting Colonel Goosen explained that Biko's death could be a very big embarrassment for the security branch and the South African government."

"Colonel Goosen then explained that it was in the interests of the government of the day that this incident had to be managed so as to protect the interests of the security police and the South African government."

"During this meeting, he gave orders that everyone who had been present had to make statements in which the true facts of this incident were adapted and concealed."

Colonel Goosen has subsequently died. The hearing continues.

Warrant Officer Marx and Detective Sergeant Nieuwoudt helped "In time they tried to pin Biko down in the corner of the office and to handcuff him. During this process they started pushing Biko towards the wall, and one of them stumbled."

"Because Biko was in front, he made very hard contact with the wall with his head. After that he collapsed and fell to the ground."

Major Snyman said it was obvious that the blow on the head had left Biko somewhat faint and disoriented.

Winnie breaks silence on murder of Soweto physician

ARGUS CORRESPONDENT AND AFP

Argus 10/19/97 1252

Winnie Madikizela-Mandela broke her silence over mounting accusations that she was involved in the death of Soweto physician Abu-Baker Asvat in 1989 as a book implicating her in another murder was released.

In the book, titled *Katiza's Journey Beneath the Surface of South Africa's Shame*, Katiza Cebekhulu, a key state witness in her 1991 trial into the kidnapping and murder of teenage activist Stompie Sepe, claims that Ms Madikizela-Mandela stabbed the 14-year-old twice with a sharp object the day he died.

Ms Madikizela-Mandela initially received a six-year jail sentence for kidnapping Stompie, later commuted to a R15 000 fine. In the book, written by South African Fred Bridgeland, Mr Cebekhulu also contends that Ms Madikizela-Mandela lied to the court about her alibi.

Ms Madikizela-Mandela said allegations that she was involved in Dr Asvat's murder was "depravity of a cruel kind" because he was a "personal friend, family doctor and a man of deep compassion".

She said Dr Asvat, who was also the Azanian People's Organisation's health secretary at the time, had

helped her run a clinic for the community of Brandfort in the Free State Reading a prepared statement, Ms Madikizela-Mandela asked: "Where is Cebekhulu? Is the state machinery unable to get hold of this unsophisticated person so that he tells the truth?"

"He must come home to stand trial and to say who helped him leave the country and why," she said.

Ms Madikizela-Mandela, who said she had watched in painful silence as her character was "butchered" in the media, repeated that she intended to testify before the "Truth and Reconciliation Commission to bare her soul to the country."

"I beg that it be done in public. I beg that these issues be tested by the vigilance of the public," she said.

African National Congress legal affairs head and Mpumalanga Premier Mathews Phosa said the TRC was the right forum to discuss all allegations against Ms Madikizela-Mandela.

He said the ANC was alarmed by "this trial by certain quarters" on the basis of innuendos.

He said Ms Madikizela-Mandela had been charged and had gone through a full trial and did not deserve to go through the same trial again.



Facing the press: Winnie Madikizela-Mandela appears at ANC headquarters to deny claims that she was involved in murder

REUTERS

Winnie 'Cover-up' furor

TRC probe sought over 'Nat-ANC plot'

Argus 10/9/97 (253)

STAFF REPORTERS

The Truth Commission is to be asked to conduct a special investigation into claims that the former National Party government and the African National Congress conspired to cover up allegations of murder involving ANC Women's League president Winnie Madikizela-Mandela

The allegations, and the suggestions of a cover-up, have emerged in a new book on Mrs Madikizela-Mandela, and in a controversial BBC documentary screened last night in Britain and South Africa

Mrs Madikizela-Mandela has denied the claims, and has accused the media of "vandalising my dignity without just cause". She has promised to "bare her soul" when she gives evidence to the TRC

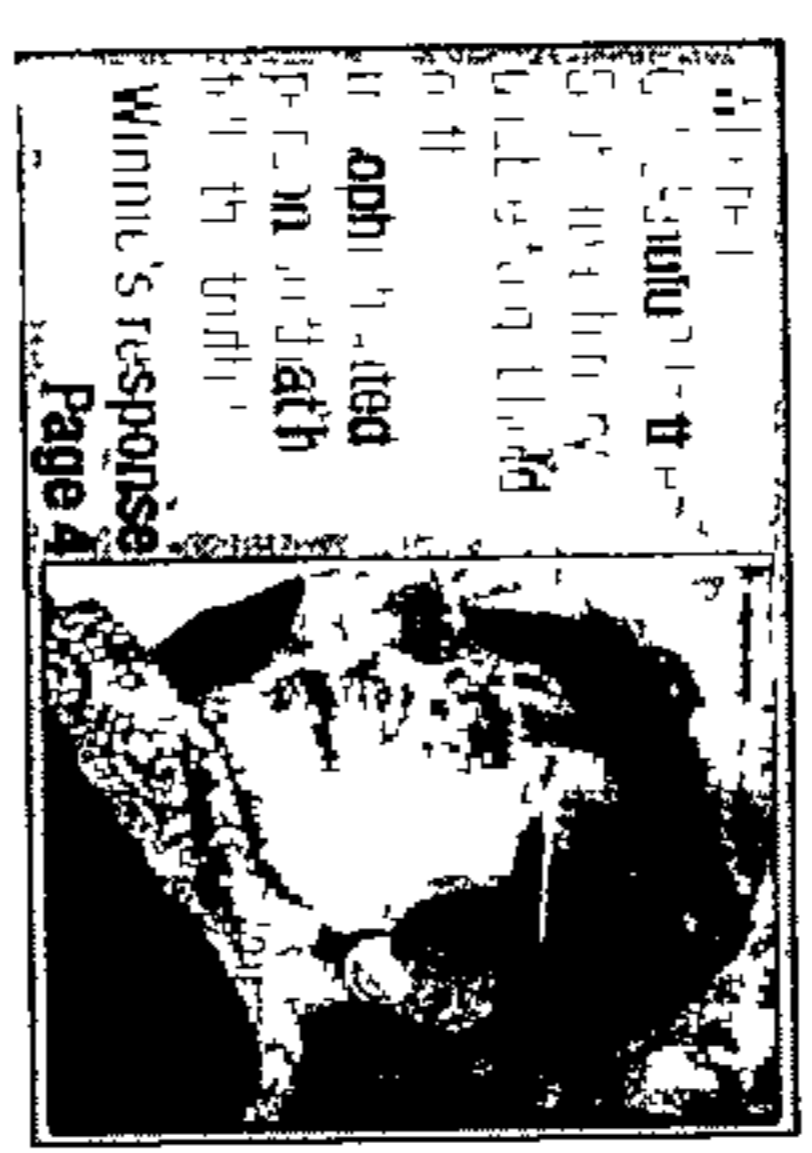
Calls are expected from the Democratic Party and other groups for a special TRC

inquiry into the cover-up claims

The book, *Katiza's Journey Beneath the Surface of South Africa's Shame*, was launched yesterday in Cape Town by British journalist Fred Bridgland. It and an amnesty application by a prisoner contain allegations that Mrs Madikizela-Mandela ordered the 1989 murders of prominent Soweto physician Abu-Baker Asvat and teenage activist Stompie Seipel.

At a press conference at the ANC's Johannesburg headquarters, Mrs Madikizela-Mandela labelled as "depravity of a cruel kind" claims by one of Asvat's killers, Thulani Nicholas Dlamini, that she had hired him and an accomplice to kill the doctor for R20 000.

She said Asvat, who was also health secretary for the Azanian People's Organisation at the time, was a "personal friend, family doctor and a man of deep compassion". Katza Cebekhulu, a key state witness in



Winnie's response Page 4

her 1991 trial into the kidnapping and murder of Seipel, is quoted in the book as saying that Mrs Madikizela-Mandela stabbed the 14-year-old twice with a sharp object the day he died. Mrs Madikizela-Mandela said she had watched in painful silence as her character was "butchered" in the media. Repeating that she intended to testify

before the TRC, to bare her soul to the scrutiny of her country, she urged, "I beg that it be done in public. I beg that these issues be tested by the vigilance of the public."

Mrs Madikizela-Mandela was initially sentenced to six years' jail for kidnapping Stompie, the sentence later being commuted to a R15 000 fine.

Cebekhulu, who since he fled in 1991 has been under the protection of a former British MP, Emma Nicholson, now a member of the House of Lords, contended in the book that Mrs Madikizela-Mandela had lied to the court about her alibi.

Yesterday Lady Nicholson - who is here to speak to the TRC about the allegations against Mrs Madikizela-Mandela and to promote Cebekhulu's book - said efforts to speak to the Government about an inquiry into Mrs Madikizela-Mandela's alleged involvement in murder had been suppressed by officials and senior prosecutors.

"Cebekhulu cannot come to South Africa as there is an outstanding warrant for his arrest for not appearing at Winnie's trial," she said.

ANC legal affairs head and Mpumalanga Premier Mathews Phosa, who accompanied Mrs Madikizela-Mandela at the press conference, said the TRC was the right forum to discuss all allegations against her, adding that the ANC was alarmed by "this trial by certain quarters" on the basis of innuendos. Mrs Madikizela-Mandela said the allegations had hurt her and her family.

"I have seen confused panic in my grandchildren's tearful eyes as they attempt to work out whether I am the demon I am portrayed to be.

"I have agonised over the deafening silence of friends who stand and watch with sadistic pleasure over this. When will I enjoy the respect that is accorded everyone?" she asked.

BOOK LINKS GOVT TO MURDER WITNESS

Mandela denies

Stompie cover-up

CT 10 | 9 | 97

(252)

KATZA CEBEKHULU, who says he witnessed the murder of Stompie Seipei in 1989, has been prevented by the ANC from telling his story in South Africa, according to a newly released book. **TROYE LUND** reports.

PRESIDENT Nelson Mandela has denied reports that he engineered the abduction and imprisonment without trial in Zambia of the key witness in Ms Winnie Madikizela-Mandela's 1991 kidnapping trial.

Thus follows claims made in a book by Fred Bridgland released yesterday. There were also allegations that top ANC politicians have prevented the story from being told in South Africa and that writing the book was a last resort to get the story out.

Entitled, Katza's Journey — Beneath the surface of South Africa's shame, the book details how 15-year-old Katza Cebekhulu, allegedly witnessed Madikizela-Mandela stabbing Stompie Seipei in 1989 and was then spirited out of the country to a Zambian jail, where he spent three years, without charges being laid against him.

The book describes how, with the help of Mr Frederick Chuluba, who later succeeded Mr Kenneth Kaunda as Zambian president, a former British MP, Ms Emma Nicholson, managed to trace Cebekhulu to a Lusaka prison in 1991.

The book claims that according to Zambian government records, Cebekhulu's abduction from South Africa indicated that Kaunda believed Mandela might have been the mastermind.

Bridgland writes that Kaunda told him

in an interview that he had received Mandela's message from ANC leader Mr Oliver Tambo.

Kaunda is quoted as saying "Tambo said that Nelson Mandela wants this man out of South Africa. He said we must go by what Nelson had said about him. And so we took that on trust and that's how the young man found himself in trouble."

Mandela said in a statement last night that he did not arrange to have Cebekhulu taken out of South Africa and that he had no recollection of ever having met him.

"The ANC said its national working committee had decided that the Truth and Reconciliation Commission (TRC) was best placed to deal with matters of this nature.

Apart from linking Madikizela-Mandela to other murders — including that of Dr Abu Baker Asvat — the story highlights how top ANC politicians covered up Cebekhulu's experiences so as not to jeopardise the talks leading to democratisation and to protect Madikizela-Mandela.

Nicholson, who wrote the foreword and has been sheltering Cebekhulu since she persuaded Chuluba to release him from jail in 1993, said "There have been bizarre blocks from a number of top ANC politicians to every attempt to have the story told. Writing the book was a last resort."

Nicholson, who has Cebekhulu's power

of attorney and will represent him at the TRC, said no other African country that was a signatory of the UN Human Rights Treaty would agree to grant Cebekhulu asylum when he came out of jail. They had been acting as an extension of the ANC.

Bridgland's book suggests that if Mandela did not engineer or know about the abduction and imprisonment, Tambo must have been acting without authority.

"My guess is that Mandela was involved. He will argue he did it to protect Katza. But to protect him from whom? And why was it left to a British backbench MP to save Katza from the Zambian prison in which he could have died without the outside world knowing," Bridgland writes.

In Cebekhulu's words, the book describes the murder that led to his abduction "I can't say whether it was a pair of scissors or a knife. I saw her lift her hand and stab him twice. I can't say exactly where she hit him. The neck or chest or somewhere else. Then they held him in the swimming pool (facuzzi). I believe Stompie died at that moment. I was so afraid I lay down and covered my head with my blanket. I heard a car start up. I think the body was taken away in that."

Madikizela-Mandela refused to respond to the book when Nicholson told her it was being published. But, yesterday she said the allegations made against her were cruel and depraved. She challenged Cebekhulu to come back and stand trial for Seipei's murder and said she intended to testify in public before the TRC.



ENEMIES: Winnie Madikizela-Mandela at a news conference yesterday denied that she ordered the murder of a doctor she called her friend and blamed unidentified enemies for trying to vilify her. **PICTURE: AP**



Nkosinathi Biko is flanked by his mother Nontsikelelo Biko (right), widow of Black Consciousness leader Steve Biko, and an unidentified supporter at the amnesty application hearing of his father's killers in New Brighton, Port Elizabeth, yesterday. Three senior South African security police officers have applied for amnesty for their torture and killing of Biko while he was in police detention in September 1977.

PIC AFP

Biko: ex-cop tells TRC his side of story

Lowetan 11/9/97

(252)

Ex-security cop tells of struggle between Biko and cop in Port Elizabeth's Sanlam Building

By Simon Zwane

DETAILS OF HOW Black Consciousness leader Stephen Bantu Biko died in police detention 20 years ago began to emerge at the Truth and Reconciliation Commission's amnesty hearing in New Brighton, Port Elizabeth, yesterday.

A former security policeman applying for amnesty for the killing, Colonel Harold Snyman, told the committee how Biko was arrested and interrogated in September 1977.

Biko and his associate, Mr Peter Jones, were arrested at a roadblock in Grahamstown and taken to Port Elizabeth. After questioning Jones, security policemen Snyman, Danie Siebert, Jakobus Beneke, Rubin Marx and Gideon Niewoudt started interrogating Biko at the notorious Room 621 in the Sanlam building.

Biko was made to stand for 30 minutes while Siebert questioned him about a pamphlet that had been distributed in Port Elizabeth and about breaking his banning order by travelling to Cape Town where he held discussions with Dr Neville Alexander of the then Non-European Unity Movement.

"I was of the opinion that Biko became aware that we had a lot of information and

immediately became anxious," Snyman said.

He said Siebert continued to question Biko and challenged his replies. Suddenly Biko took a chair and sat down.

"Siebert grabbed Biko and removed him from the chair. He screamed at him that he should cooperate. Biko immediately stood up and pushed the chair hard in the direction of Siebert. Biko attempted to strike Siebert (with the chair) but he did not hit," he said.

A scuffle ensued. Warrant-Officer Beneke entered the room and held Biko by his shoulders.

Confused and disoriented

"Siebert and Beneke became involved in a fight with Biko before ultimately bringing him under control," Snyman said. "During the fight I noticed that Marx and Niewoudt came in to help. They tried to hold Biko against the corner of the office. In the process they banged Biko against the wall. He became confused and disoriented."

He was kept in the room the whole day without medical attention. He was later examined by two doctors before being taken to Pretoria Central Prison in a police van. He died on September 12, 1977.

EX-COP tells how Biko was beaten

262

Journal 11/9/97

By Simon Zwane

BLACK Consciousness leader Stephen Bantu Biko looked like someone who was knocked out in a boxing match as he lay

sprawled on the floor after hitting a wall, a former security policeman told the Truth and Reconciliation Commission yesterday.

Colonel Harold Snyman, who is applying for amnesty for his part in the killing of Biko, told the committee in Port Elizabeth that during the interrogation in September 1977 Biko lost his balance during a scuffle with four security policemen before hitting a wall with his head.

"He was speaking with a slurred murmur and he had injuries on the lip and the body," said Snyman.

He said he felt bad that Biko's human rights were violated but denied that there was any intention to kill him.

"Our actions were wrong. I feel remorse and ask that I be forgiven for my part," he pleaded.

Transported naked

Tomorrow will mark 20 years since Biko died a lonely death in a cell in Pretoria after being transported naked and in chains in the back of a police van 1 200km from Port Elizabeth.

Four other former security policemen, Daniel Stebert, Rubin Marx, Gideon Nkwoutu and Jakobus Bencke, are also applying for amnesty in connection with Biko's death.

Advocate George Bizos, representing the Biko family, told the committee that he would oppose the application on the basis that a full disclosure had not been made and that "torturing helpless detainees, held under Section 6 of the Terrorism Act to obtain information — to the point they ended dead — is not a political objective

at a civilised society can tolerate.

Bizos described the applicant's testimony as a modified version of the evidence that was given to the inquest which investigated Biko's death 20 years ago.

The Centenary Hall in New Brighton, where the hearing is being held, started teeming with people and media personnel two hours before the hearing started.

Biko's widow, Ntsiki, and son, Nkosinathi, were swamped by press photographers when they arrived for the hearing.

Clad in a gold and black dress, Mrs Biko appeared composed and was not overawed by the media attention.

Sitting behind Bizos, Mrs Biko heard how the security policemen connived with their commander Colonel Pj Goosen to conceal the truth in the interest of the Security Branch and the National Party government.

Snyman said Goosen had called a meeting with them after it had become known that Biko had died and explained that Biko's death would be an embarrassment for the Security Branch and the government.

"It was clear that this incident would create a negative picture of South Africa in foreign countries and could possibly result in disinvestment," he said.

"Goosen explained that it was in the interest of the government of the day that the incident was managed to protect the interest of the Security Branch and the South African government."

At this meeting the police were ordered to make statements in which the truth would be hidden, Snyman said.

Former American Black Panther leader Kwame Toure and Biko's close associate Peter Jones are scheduled to address a Biko commemorative rally in Gansberg at the weekend. Jones also attended the hearing.



Above: Harold Snyman, former head of the Port Elizabeth Security Branch listens during an amnesty application hearing in New Brighton yesterday. Snyman and four other security policemen have applied for amnesty for their part in the killing of Black Consciousness leader Steve Biko on September 12 1977. The police claimed Biko's death was accidental. Left: Steve Biko

PH: AFP

Parties say they rejected young activist as police spy

Star 11/9/97 (252)

BY RAMOTENA MABOTE
Political Reporter

Contrary to his version of events, Katiza Cebekhulu left KwaZulu Natal under suspicious circumstances in 1989, after both the IFP and ANC had rejected him because of his alleged involvement with the security police, the two organisations have claimed.

Dr Meshack Radebe, a former ANC leader in an area called Mpumalanga near Hammarsdale, said that after working with Cebekhulu for a few months in 1987, both he and the ANC started suspecting him of being a police informer.

When it became clear that they could not trust Cebekhulu anymore, the ANC got rid of him. He subsequently went to IFP leader Siphso Mlaba, who gave him shelter. A month later Mlaba's house was burnt down and Cebekhulu was moved to the house of another IFP leader, whose house was also later destroyed by fire.

Cebekhulu kept on asking

the IFP to help him take revenge against the ANC and for a firearm to protect himself, but his requests were refused.

"When we began to suspect that he was an informer who came to the IFP to suck information and supply it to the security police, he left us," Mlaba added.

Both organisations claimed Cebekhulu was subsequently escorted out of the area by a large contingent of SADF members and was never seen again, until he resurfaced in Winnie Madikizela-Mandela's house in 1989.

ANC KwaZulu Natal spokesman Dumisani Makhaye said Cebekhulu's disappearance from the region and sudden reappearance in Johannesburg, were indicative of the sinister company he kept.

"During the bloody violence in the late 1980s he was implicated in many murders in the area. We need him to come back to Mpumalanga (KwaZulu Natal) and account for what he did," Radebe said.



Artist's impression ... graphic artist Jason Askew's impression of the beating of Steve Biko.

Twenty years on, the interrogator is the one who has to answer the questions

By **ROBERT BRAND**

Port Elizabeth – Former security police interrogator Harold Snyman found himself being interrogated before the Truth and Reconciliation Commission yesterday, and he did not like it

After more than three hours of tough questioning, by Biko family advocate George Bizos SC, about his role in the death of the anti-apartheid activist, Snyman (69) had had enough. He asked for an adjournment. "I am tired, your honour. I am not healthy and I don't feel



Quest for truth ... Steve Biko's son, Nkosinathi, and wife Ntsiki.

I can go on any longer. I am on medication, and my old age should also be taken into account."

The hearing was adjourned 15 minutes early.

Snyman and four other former security policemen have applied for amnesty for assault and culpable homicide in connection with Biko's death on September 12, 1977.

Snyman, then a major, was in charge of the team which interrogated Biko. According to his testimony yesterday, he was no more than a bystander in the violent struggle between Biko

and his interrogators.

Bizos, who co-represented the Biko family at the 1977 inquest which absolved the police of criminal responsibility in Biko's death, clearly relished the opportunity of turning the tables.

Snyman's answers became increasingly monosyllabic and evasive as Bizos questioned his contention that he and his men had killed Biko accidentally. "Yes", "No" and "That is possible" were his favourite answers.

Earlier, during his evidence-in-chief, Snyman apologised to the Biko family and asked their forgiveness.

STAN 11/9/97

(252)

'Crucifixion' of chained Biko on metal grille

Star 11/9/97

(252)

Detained leader was 'aggressive and confrontational'

By **ROBERT BRAND**
Port Elizabeth

After receiving a severe blow to the head, a "dazed and confused" Steve Biko was chained hand and foot to a metal grille, with his arms stretched out as if on a crucifix

He remained in this position for most of the day while his interrogators waited for him to recover so that they could continue their questioning.

He did not receive any medical attention until the following morning, although his interrogators detected visible head injuries and noticed that he had become incoherent.

This is the picture that emerged on the first day of the Truth and Reconciliation Commission amnesty hearing for five former security policemen who have admitted involvement in Biko's death.

They say they became involved in a struggle with Biko while interrogating him and accidentally rammed his head against a wall while trying to restrain him, causing the injury that led to his death from

brain damage seven days later

Harold Snyman, who testified yesterday, admitted that chaining Biko to the grille was a form of torture

Another applicant, Sergeant Gideon Nieuwoudt, admitted in his written statement that he had struck Biko several times across his back with a length of hosepipe during the struggle

The applicants all deny they had deliberately inflicted the head injury

Snyman described the events that led to Biko's fatal injury, starting at 9 30am on September 6 1977 "(Captain Daantjie) Siebert initially started questioning him. It was clear that he was not going to co-operate.

"He was ill tempered, confrontational and aggressive He tried to sit on a chair, and Siebert ordered him to remain standing

"He tried again to sit down. Siebert shouted at him to stand up He did not react Siebert grabbed Biko by his clothes and pulled him away from the chair.

"Biko aimed a blow at him, but missed (Warrant Officer-Jacobus) Benecke then shouldered-charged Biko and he stag-

gered back towards the wall.

"(Warrant Officer Rubin) Marx and Nieuwoudt joined in They were trying to corner Biko in order to handcuff him.

"They were pushing Biko towards the wall. In the process, they all collapsed against the wall"

In this fracas, Snyman said, Biko's head hit the wall.

When the policemen stood up, Biko remained lying with his head against the wall. They handcuffed and shackled him to the grille.

Snyman said his superior, Colonel Piet Goosen, ordered them to leave Biko chained to the grille under guard.

Only the next day, on September 7 (24 hours after the assault) was district surgeon Ivor Lang called to examine him

When he failed to recover, Biko was sent first to Port Elizabeth prison and then, on Sunday September 11, transported to Pretoria, where he died the next day.

The hearing continues today.

► 'No closer to the truth'

Omar vows to get Katiza to TRC

Winnie summoned to closed hearing this month

and 11/9/97

(252)

JOSEPH ARANES
STAFF REPORTER

Justice Minister Dullah Omar promises to pull out all the stops to ensure Winnie Madikizela-Mandela's accuser, fugitive Katiza Cebekhulu, returns to South Africa to substantiate his allegations before the Truth Commission.

Mr Cebekhulu, former member of the notorious Mandela Football Club, has applied for amnesty for his role in the anti-apartheid struggle

He was to have testified against Mrs Madikizela-Mandela at her trial

for the kidnapping of teenage activist Stormie Seipei, but disappeared

It was established that he had been jailed in Zambia and later taken to Britain where he has been making allegations of Mrs Madikizela-Mandela's involvement in the deaths of Stormie and Soweto doctor Abu-Baker Asvat

Mr Omar said he had taken note "with amazement" of the various allegations, "some far-fetched", by Mr Cebekhulu.

"I do not wish to comment on the allegations, but am concerned about the integrity of the processes of the Truth Commission and trust that the

platforms it creates will not be abused for ulterior purposes

"The Government is fully supportive of the TRC and will assist them wherever necessary in their current investigations, including ensuring that Mr Cebekhulu is given the opportunity of testifying freely and under the protection of the TRC witness protection programme," Mr Omar said

Truth Commission acting chairman Alex Boraine said Mrs Madikizela-Mandela had been subpoenaed in terms of Section 29 of the TRC Act to appear at an investigative inquiry on September 25 and 26. The hearing would be closed and

no one other than the person being questioned and his or her legal representative would be allowed to attend

Dr Boraine said the law allowed no discretion whatsoever to open such an inquiry to others

"The reason it is not open to the public is the same reason the police do not allow the media or the public to attend their interviews of witnesses - it could prejudice ongoing investigations," he said

"The TRC also has another reason for holding a closed inquiry. If the person being questioned implicates other people, such people are legally entitled to advance notice before they

are publicly identified"

Dr Boraine said the TRC would also approach the Gauteng attorney-general to establish whether Mr Cebekhulu could return for his hearing without being arrested

He said the steps were part of the TRC's efforts to ensure allegations surrounding the activities of the Mandela United Football Club were investigated as soon as possible

"Our interest in the club dates back more than a year, when parents of missing youths who appeared at a TRC human rights violations hearing in Soweto asked us to investigate the disappearances"



Dolf Odendal



Johan Kleyn



Steve Brits



Leonard Knipe

Guguletu 7: TRC shock for top cops

NORMAN JOSEPH
STAFF REPORTER

Two top Western Cape policemen will be implicated in allegations of a cover-up and destroying valuable information and exhibits when new evidence about the Guguletu Seven shootings emerges at a Truth Commission hearing next month

Another two high-ranking officers will be named as alleged planners of the operation in which the seven African National Congress members were killed in Guguletu on March 3 1986

The officers are former murder and robbery chiefs Steve "Fanie" Brits and Leonard Knipe, former riot police commander Dolf Odendal and ex-murder and robbery detective Johan Kleyn. They are to be notified by the commission that they will be named when the Guguletu Seven hearing resumes on October 13

TRC spokesman Chrystal Tereblanche confirmed that the officers and other policemen would be notified in terms of Section 30 of the Truth and Reconciliation Act that they would be implicated and named

She said former Vlakplaas operatives Wilhelm Riaan Bellingan and Thalepo Mbelo had applied for amnesty for their role in the killing of the seven and would testify

Ms Tereblanche declined to provide further details, but it is believed Colonel Brits is alleged to have destroyed crucial evidence such as firearms and statements while in-

Top cops face TRC claims of cover-up

From page 1

investigating the shootings. It is understood that he and Director Knipe are alleged to have covered up and withheld several clues in the investigation

Sources said directors Odendal and Kleyn were alleged to have planned the attack on the seven two days before it was carried out.

It is believed the two policemen are alleged to have been given instructions by police headquarters in Pretoria to eliminate the activists and that additional strategies came from Vlakplaas, the police farm near Pretoria

Sources said it was hoped the hearing would reveal who gave the instructions from Pretoria.

None of the four officers has applied for amnesty and it is believed the TRC will ask for criminal prosecutions

Colonel Brits, who retired four years ago, said he would not apply for amnesty and the TRC had not subpoenaed him

He said he arrived on the scene after the shootings and was one of the investigators

He also said he had been "very surprised" to see his colleagues Kallie Botma, Director Kleyn and Kat Coetzee on the scene before him

Colonel Brits said that as the murder and robbery commander at the time, he was the first to be notified of the shootings

He said he could not understand why his colleagues were there before him

He had made an entry in his pocket book, noting their names and the time he arrived

Another surprise was when Quinton Visser flew from Gauteng to visit the scene

Colonel Brits denied that he and Director Knipe tampered with evidence and covered up the investigation

Director Knipe, now head of the provincial violent crimes unit, said he had already testified in front of the TRC and would stick to his statement. "I deny all the allegations," he said

To page 5

Torturer's plea leaves them cold

Port Elizabeth - There were loud, unsympathetic mutters from hundreds of spectators in the Centenary Hall, New Brighton when Steve Biko's chief interrogator, Harold Snyman, asked the amnesty committee to let him stand down just before 4pm yesterday.

Mr Snyman started his testimony about 10am, and from noon had faced a torrid cross-examination by George Bizos, SC, for the Biko family and Peter Jones, Steve Biko's colleague, who was arrested with him at a road-block near Grahamstown.

Mr Snyman, a major at the time he led the team that interrogated Biko in September 1977, appealed to committee chairman Mr Justice Hassen Mall to end the day's session.

He told Judge Mall he was on medication and asked that his age - he is 69 - be taken into account. "Your honour, I am very tired."

Judge Mall adjourned the hearing until 9.30am today, when Mr Bizos will resume his cross-examination.

Earlier, Mr Snyman, a sharp-faced man, sat with hands interlaced, moving his fingers nervously, as he struggled to answer Mr Bizos's questions.

He said National Party politicians had told security police "to fight fire with fire" but admitted he could not name any politicians who publicly instructed them to torture detainees. "I am convinced in my heart that our behaviour was wrong and I'm sorry about what happened," he said.



Amnesty applicants: former policemen Gideon Nieuwoudt, left, and Harold Snyman at the hearing yesterday

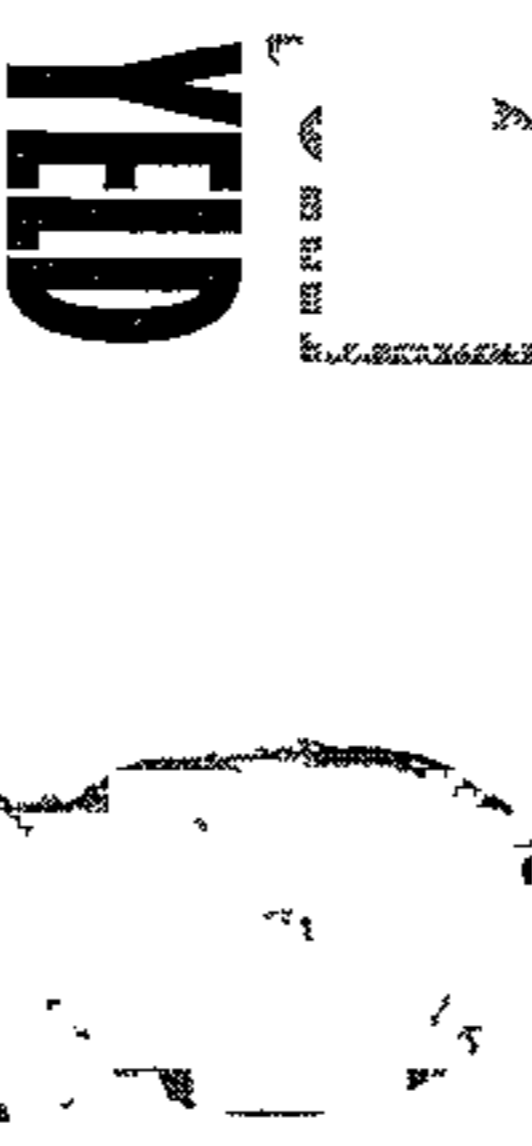


Opposing the application: widow Mrs Ntsiki Biko with Peter Jones, who was detained with Steve Biko

Cop thought Biko was 'too big for his boots' Snyman tells why BPC leader was forced to stand during grilling

Port Elizabeth - The leader of the team of security police who interrogated black consciousness leader Steve Biko shortly before his death in detention believed he was "too big for his boots", the Truth Commission's amnesty committee heard today.

Harold Snyman, who was a major at the time, agreed during cross-examination that he, as a white man, had been offended by Biko's insistence on sitting down during the interrogation on September 6, 1977. George Bizos, SC, for the Biko



down, had maintained his status. "You were not going to tolerate it and you told him to get up?" he asked. Mr Snyman replied, "That is correct. It had been an instruction that he was not allowed to sit".

Mr Snyman is one of five former security policemen who are applying for amnesty for culpable homicide and assault in connection with the interrogation and death of Biko.

The others are former captain Daniel Stebert, warrant officers Rubin Marx and Jacobus Bencke, and Sergeant Gideon Nieuwoudt.

ON THE TRUTH COMMISSION

family and Biko's friend Peter Jones, who was arrested with him in August 1977, put it to Mr Snyman that Biko was a proud man and that by sitting

as you and your colleagues did for a number of weeks in 1977, acting in good faith?"

There were gasps when Mr Bizos asked Mr Snyman whether police had installed a secret transmitter in the inquest court so police witnesses could hear what colleagues said.

Mr Snyman replied that he did not know of this. Nothing that Mr Snyman acknowledged could have influenced and orders of two senior police officers, both now dead, Mr Bizos asked: "Might we infer a tendency to put blame on the dead?"

He asked Mr Snyman how he had persuaded people to sign affidavits implicating Biko in treasonous activities, and then answered the question "You smashed them up, like you did Mr Biko. You tortured them, like you did Mr Jones."

"You beat them up so they would sign anything put in front of them."

When Mr Snyman acknowledged he and his colleagues could have acted "in an inhumane manner" in their treatment of Biko, Mr Bizos was quick to add "That is one of the franker answers you have given."

Continuing his intense cross-examination from yesterday, Mr Bizos suggested to Mr Snyman that had it not been for the personal pride of the five security policemen, the scuffle might not have occurred at all.

Mr Snyman "Our instructions from our commanding officer were



Formidable: George Bizos

Major lying, says widow

Port Elizabeth - Steve Biko's widow believes the security police major who led the interrogation of her husband was "lying" to the TRC "even more than he did at the inquest".

Ntsiki Biko was speaking at a brief media conference after listening all day yesterday to the testimony of Harold Snyman, who had held the rank of major at the time of Biko's death in 1977.

Ms Biko and Peter Jones, who was arrested with Biko and was also tortured by Major Snyman's team, said they had been sceptical before

the start of the amnesty applications by Mr Snyman and four others. Mr Jones, who may be called to testify about his treatment while in solitary confinement, said it had been "very clear the extent to which these people are prepared to continue lying - we are no closer to the truth".

"We hope their applications won't succeed," Mr Jones said. Ms Biko concurred, and when asked how she had felt listening to Mr Snyman all day, said she had heard "nothing new". "What they're saying is not the truth."

Bizos skilfully unravels the web of deceit

Port Elizabeth - George Bizos, SC, one of the most respected names in South African legal circles, was at his formidable best here on the first day of the amnesty application by five former security policemen.

Mr Bizos, a member of the legal team that represented the Biko family at the official inquest into Steve Biko's death in 1977, is appearing at the amnesty hearing for the family and for Biko's associate Peter Jones, who was arrested with him. He grilled Harold Snyman, the

then major who had led Biko's team of interrogators, for nearly five hours, and delighted the hundreds packed into the Centenary Hall, New Brighton, with his polite but loudly insistent style of questioning.

He noted that Mr Snyman had lied to the inquest court on more than 80 occasions yet claimed in his amnesty application to have always acted in good faith as a police officer.

To laughter from the audience, Mr Bizos asked "Is perjury a police action performed in good faith?" "Is defeating the ends of justice,

MURDER WITNESS CHALLENGES WINNIE

Stompie: Who is lying?

KATIZA CEBEKHULU who claims in his new book that he saw Winnie Madikizela-Mandela kill activist Stompie Sepei, may testify before the TRC under a witness protection programme. Meanwhile, Justice Minister Dullah Omar has promised to do "all that is necessary" for this to happen. **TROYELUND** and **INGA MOLZEN** report

CT 11/9/97

(252)

FUGITIVE Mr Katiza Cebekhulu, who claims that Mrs Winnie Madikizela-Mandela personally murdered teenage activist Stompie Sepei Moekeisi in 1988, may be put into a witness protection programme — and may testify before a special Truth and Reconciliation Commission (TRC) amnesty hearing, held overseas for his own safety.

Cebekhulu made a surprise appearance yesterday at the British launch of a book which tells the story of his life in the notorious Mandela United Football Club, and how he allegedly witnessed Madikizela-Mandela stabbing the 13-year-Stompie to death in December 1988. His body was discovered on January 6, 1989.

The book, entitled *Katiza's Journey — Beneath the Surface of South Africa's Shame*, was also released this week in South Africa and Europe.

"If I'm lying, I should be punished. If Mrs Mandela is lying, she should be punished," Cebekhulu said yesterday. "She's lying. She's the one who killed Stompie. I saw her."

In the book Cebekhulu accuses Madikizela-Mandela of murdering Stompie by stabbing him with a sharp instrument.

The book also describes the reign of terror that Madikizela-Mandela is alleged to have organised in Soweto during the 1980s.

His allegations refer not only to Stompie being "beaten to a pulp". He has also accused President Nelson Mandela's former wife of the violent deaths of two other teenage activists, Mr Lolo Sono and Mr Siboniso Tshabalala.

Cebekhulu's appearance yesterday was completely unplanned and was entirely his choice. He spoke off the cuff, said former British MP Ms Emma Nicholson.

She has been sheltering Cebekhulu since he was released from a Zambian jail in 1993, where he had been held — allegedly at the behest of the ANC — for 30 months, after disappearing shortly before he was to testify in Madikizela-Mandela's Rand Supreme Court trial for kidnapping Stompie.

Madikizela-Mandela was convicted only of assault, a conviction later set aside on appeal. A jail sentence imposed for her part in the kidnapping was reduced to a fine.



MAIN PLAYERS: Katiza Cebekhulu (left) yesterday made his first public appearance in six years at the London launch of a book on him. He urged a retrial of Winnie-Madikizela-Mandela. Cebekhulu, a former member of the Mandela United Football Club, alleged he had seen her stabbing slain teenage activist Stompie Sepei.

Yet, in the face of fresh evidence being brought before the attorney-general to substantiate new charges being brought, murder charges could, in theory, be brought against her

"What we have done in this book is to entirely smash Winnie Madikizela-Mandela's alibi that she gave at her trial," said Channel 4 journalist and the book's author, Mr Fred Bridgland

"There's no reason why Winnie Madikizela-Mandela should not be tried for the murder of Stompie Moeketsi " Cebekhulu said he stands by affidavits prepared by him and presented this week to the acting TRC chairman, Dr Alex Boraine, by Nicholson

However, Nicholson said last night Cebekhulu had decided that this would be the only public statement he would be giving

"He wants to focus entirely on his presentations and amnesty application to the Truth and Reconciliation Com-

mission

"He does not want to jeopardise that work in any way This is just the beginning," she said "He has decided not to give any interviews or make any more statements "

Mr George Morley, of MacMillan Publishers in London, told the Cape Times last night that the crowd that had attended the book launch had been "thoroughly moved" by Cebekhulu's appearance and by what he had said

Morley said the story had been headline news on all Channel 4 and BBC news bulletins since Monday night, when the book was launched in South Africa

A warrant of arrest for Cebekhulu is still outstanding, for failing to appear in the Rand Supreme Court as a witness in Madikizela-Mandela's trial, and for failing to appear on the charges of kidnapping and assault that were laid against him

□ To Page 4

Cebekhulu's list of serious accusations

THESE are the crimes Mr Katiza Cebekhulu claims Ms Winnie Madikizela-Mandela is guilty of:

- Kidnapping and murdering Siboniso Tshabalala
- Murdering and assaulting Iolo Sono.
- Kidnapping and beating Stompie Sepele, Kenneth Kgase, Thabiso Mono and Pelo Mekoewe.
- Murdering and assaulting Stompie.
- Murdering Dr Abu Baker Asvat
- Kidnapping and assaulting Katiza Cebekhulu.

INTERROGATION LASTED ONLY MINUTES

Moment of truth for Biko's chief inquisitor

(262) 27 11 91 97

PORT ELIZABETH: Steve Biko's chief interrogator told the TRC's amnesty committee yesterday how Biko fought back when they tried to question him. **ROGER FRIEDMAN** and **BENNY GOOL** report.

THE leader of Steve Biko's five-man interrogation team, Colonel Harold Snyman, conceded yesterday that it was "irregular" for a member of his team to have attacked the Black Consciousness Movement leader with a hose-pipe, but stuck to his guns that Biko's death was an accident, the result of his head being bashed against a wall during a "scuffle" with his captors.

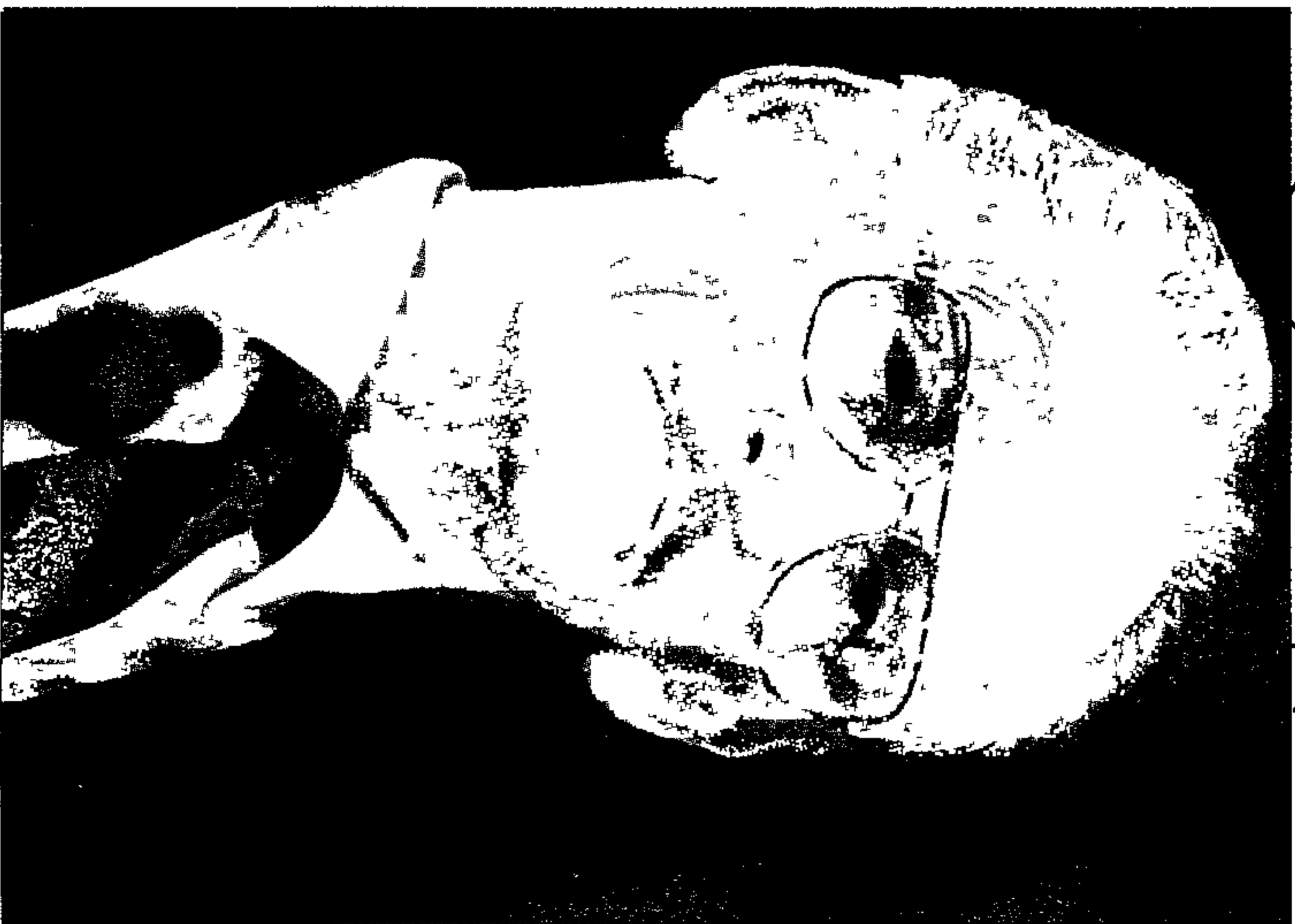
Describing himself as a "loyal" supporter of the apartheid regime, a supporter of the National Party, a committed Christian, and towards the end of the day, "not a healthy person", Snyman was the first of the team called to face the Truth and Reconciliation Commission's amnesty committee.

His cross-examination by Mr George Bizos, SC, continues today. Bizos is opposing the amnesty applications on behalf of the Biko family and Mr Peter Jones, who was arrested with Biko and severely tortured.

Immediately after proceedings were adjourned yesterday, Biko's usually media-shy widow, Mrs Ntsiki Biko, dismissed Snyman's evidence as a continuation of the perjury he now admits committing at the Biko inquest nearly 20 years ago.

Snyman spent the day clasping and re-clasping his hands, head down towards the microphone, answering Bizos' dozens of questions in short, rather-rattled bursts of Afrikaans.

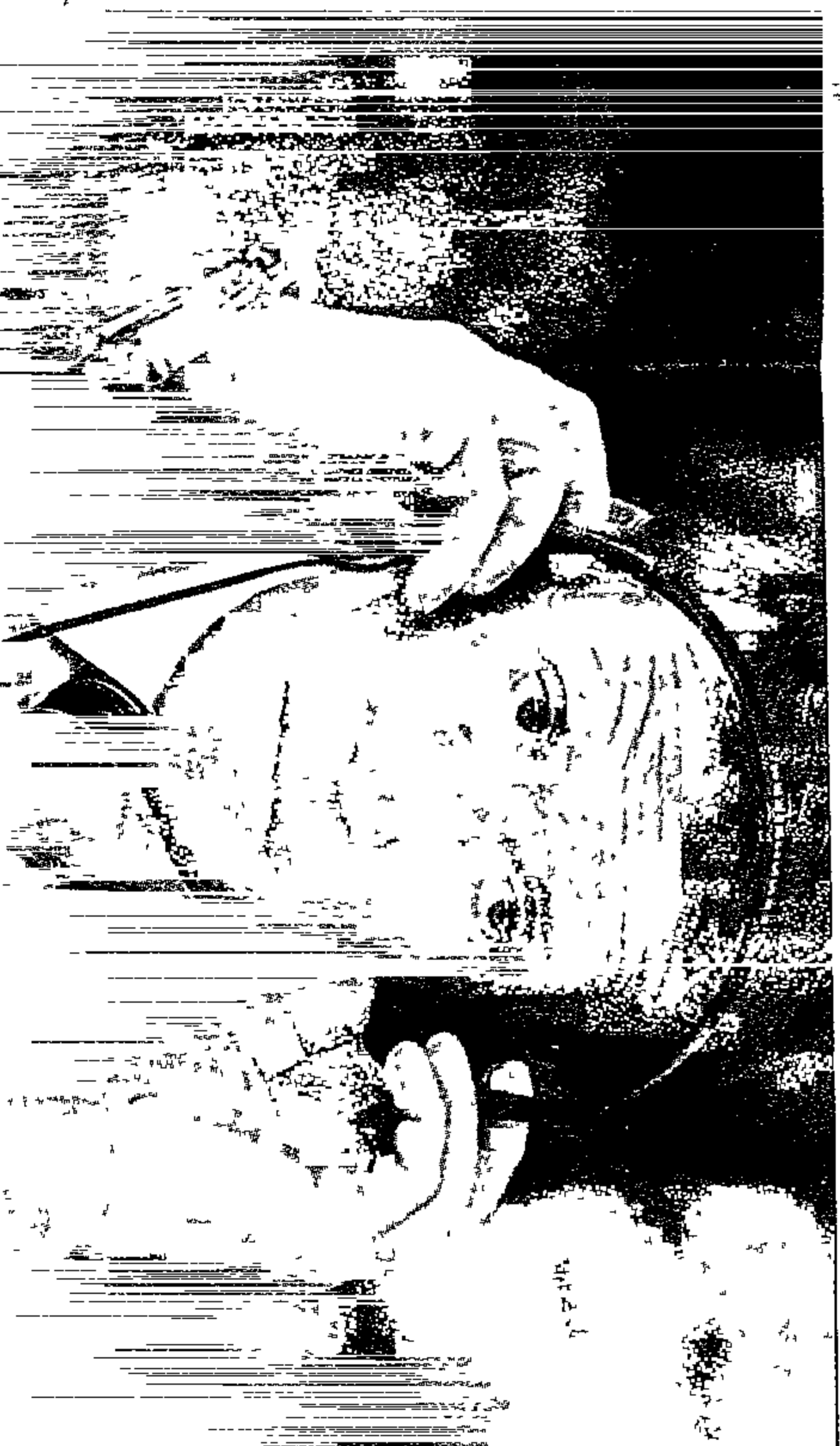
A security police major in charge of suppressing Indian and coloured anti-apartheid activists at the time of Biko's arrest, Snyman testified that he had been instructed a few days later by the then-head of the Port Elizabeth branch, Colonel Piet Goosen, to lead



TOP RIGHT: Steve Biko's son Nkosinathi Biko, his widow Ntsiki and comrade Peter Jones are opposing the amnesty applications of Biko's interrogators **ABOVE:** Harold Snyman, the leader of Steve Biko's interrogation team, described himself yesterday as "not a healthy person". **RIGHT:** Gideon Nieuwoudt admitted hitting Biko "to bring him under control".

up and pulled Biko to his feet, at which point Biko had swung a punch at Siebert. They also allege that Biko attempted to use a chair as a weapon.

The ensuing melee had been joined by team member Mr Jacobus Johannes Oosthuizen Baneke who had



Security policeman tells how he killed activist

BLOEMFONTEIN: A security policeman told the Truth and Reconciliation Commission yesterday he killed an activist on orders of his superiors, but denied taking part in the vicious beating and torture of detainees in Botshabelo.

Sergeant Mhonaetse Stephen Motsamai, 43, is applying for amnesty for murder, arson, torture, assault and burning down the house and clinic of Ms Winnie Madikizela-Mandela in Brandfort.

The crimes, in which Motsamai implicates 11 Free State policemen, were allegedly committed in and around Bloemfontein between 1980 and 1992.

Motsamai told the committee yesterday that Colonel Abraham Coetzee, who ordered the murder of activist George Misi, told him to be very careful because he was going to commit a murder.

Motsamai said Misi was screaming at the top of his voice when he and a Sergeant Nkululeko Mamome grabbed with him at the back door of his house. Mtsamai used a 38 hand gun to shoot Misi in the head.

arrested on August 18, 1977, his interrogation had begun on September 6. Meanwhile, the team had tried frantically to extract a case against Biko from other detainees — including Jones.

But Biko's interrogation had lasted only a few minutes. This was how long it had taken to become "very clear that Mr Biko was not going to co-operate".

Snyman described Biko as "rebellious" and "aggressive", adding that he had repeatedly refused to obey the instruction that he remain standing.

Their story is that after Biko sat down on a chair for the umpteenth time, interrogator Mr Daniel Petrus Siebert (who retired from the police as a brigadier two years ago) had jumped

had sent Biko staggering. Mr Rubi Marx and Gideon Johannes Niewoudt (recently convicted for blowing up a car-load of police colleagues in what became known as the Motherwell bombing) had also joined in.

"They were trying to corner him so that they could handcuff him. It was a full-scale fight, blows were traded left and right. In the process they all fell on top of each other towards the northern wall of the office," Snyman said.

The fight between the members of the team and Biko had become a violent struggle. In the process of the scuffle Biko had fallen, and the others had fallen on top of him. He had then been pushed towards the wall.

"He was lying with his head partly

the result of a brain injury, and two three main lesions — and two minor ones. A neurological pathologist retained by the Biko family, Professor Neville Proctor, found that there must have been at least three blows to the head.

In his written application, Niewoudt admits hitting Biko with a length of hose during the melee, but Snyman said he did not recall this detail. He claimed Biko was not assaulted but merely subdued.

Snyman did remember that the semi-conscious Biko was eventually picked up by members of the team and shackled with his arms spread wide apart to the grille of a door. His legs were also shackled to the grille.

"It was clear to me that at that time we could not continue with the interrogation. He was showing no response. I brought the matter to the attention of Colonel Goosen."

The interrogation had started in around 9am. "All of this took place in a matter of minutes, it might have now been about 9.30am," he said.

Snyman said he had entered false information in a police occurrence book concerning Biko's injuries on Goosen's orders. And he conceded it "could be true" when Bizos put it to him that he had counted a total of 80

falsehoods, 40 of them material, in his evidence at the inquest. But he claimed the lies were mostly restricted to changing the date of Biko's injury from August 6 to August 7, because a doctor was only called on the later date.

He had been prepared to lie because he understood it would prevent embarrassment to the National Party government and security police.

"It was very clear that as police officers we had to make every possible effort to keep the government in power," he said, citing a former com-

manding officer, General "Lang Hendrik" van den Berg, deceased former Bureau for State Security chief, as one of his inspirations in this field.

"He was a person who, as we saw it, emphasised that we should make every possible effort, at any cost, to maintain the government in power."

Bizos asked whether any inference should be drawn from the fact that the only people Snyman was prepared to name were already dead.

"Might we infer a tendency on your part to blame the dead?" he asked.

Niewoudt describes 'green mamba' torture

ET 11/9/97 (252)

THE man at the centre of the Eastern Cape apartheid security establishment, retired policeman Colonel Gideon Niewoudt, describes how he helped to subdue Steve Biko with a hose-pipe in documents before the Truth and Reconciliation Commission.

Niewoudt was convicted of murder last year in the so-called Motherwell bombing case, in which three policemen and an informer were blown up by a car-bomb. He is on bail, pending an appeal against his 20-year prison sentence.

He is applying for amnesty in connection with, among other cases, the death in detention of Biko, the Motherwell bombing, the abduction and killing of student activists Mr Sipho Mhinkulu and Mr Topsy Madaka, and the abduction and killing of the so-called Pecco Three, Mr Sipho Charles Hashe, Mr Qaqawuli Godolozu and Mr Champion Galela.

Although Niewoudt is yet to face the TRC's amnesty committee about the Biko matter, the commission released his written application to the media yesterday. His admission in the document that he

used a length of hose-pipe to thrash Biko, appeared to take his former senior colleague, and leader of the Biko interrogation team, retired Colonel Harold Snyman, by surprise yesterday, although the two are sharing legal representatives.

Snyman, who saw the violent scuffle between Biko and his team on September 6, 1977, which ended with Biko's head being bashed into a wall — and apparently led to his death six days later — had no recollection of the hose-pipe. He denied Biko was assaulted, and said if Niewoudt had used a hose-pipe this would have been irregular.

Niewoudt states in an affidavit that Biko became violent after repeatedly ignoring instructions to remain standing during his interrogation. "Everything happened very quickly. I

saw that the situation was getting out of hand and grabbed a length of hose-pipe. I hit Biko a number of times across the back with this garden-hose to try and stop his serious reaction." — Gideon Niewoudt

After Warrant-Officer Benke and Captain Siebert grabbed him, we wrestled him towards a corner of the room, and during the wrestling he landed against a wall. He hit the wall head-first, and then collapsed on the floor.

"It was necessary to bring Biko under control in order to question him and thereby deal with him in terms of the existing security legislation. There was no intention to hit his head against the wall, it was a result of the scuffle," Niewoudt says.

In spite of Biko being semi-conscious and incoherent, Niewoudt says that the then-Captain Daniel Petrus Siebert ordered that he be propped, spread-eagled against the grille

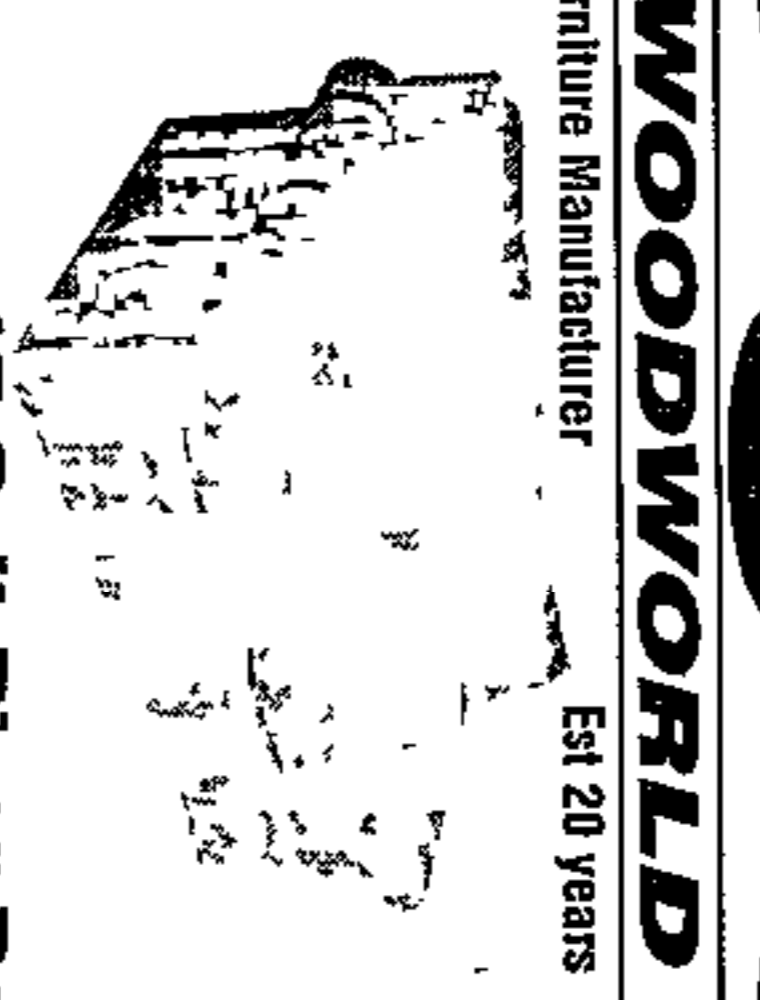
manding officer, General "Lang Hendrik" van den Berg, deceased former Bureau for State Security chief, as one of his inspirations in this field.

"He was a person who, as we saw it, emphasised that we should make every possible effort, at any cost, to maintain the government in power."

Bizos asked whether any inference should be drawn from the fact that the only people Snyman was prepared to name were already dead.

"Might we infer a tendency on your part to blame the dead?" he asked.

WOODWORLD Est 20 years
Furniture Manufacturer



OUR QUALITY IS YOUR COMFORT

Showroom 17 Salt River Road
Phone 47 1230 extn 6 for brochure
Estabon - Dining - Wall Units - Golden - Plastic - Study - Lounge - Suites

ARE YOU LEGALLY IN S.A.?

It is essential that you get the expert advice and assistance of SA's Specialist Immigration Attorney - Gary Eisenberg. He will help you legally gain residence and work permits in S.A.

Call me in complete confidence, at Eisenberg & Associates
Tel: (021) 217003

Practical Stock Market Investment Training!!!

Equity holds its course starting 6 October 1997 every Monday evening for 8 weeks.

It teaches private investors' basic economics, mechanics of JSE, technical and fundamental analysis of shares.

Only 15 seats are still available for 1997. Enrol before 15 September 1997 and receive a complimentary share software programme. Credit cards welcome.

Contact EQUITY (021) 21 2190

Gethot Bunke shown here doing his spoon trick.

(Who said the Germans don't have a sense of humour)

The Germans may not be renowned for their sense of humour, but Getnot (our Executive Chef) does have one national trait, he's a perfectionist.

This is something that will become apparent when you sample our new menu - don't worry there's not a sausage in sight.

And if you were concerned that this highly skilled imported talent is adding to the cost of your meal, don't worry, we've convinced him that sunshine is more important than Deutchmark.

THE RESTAURANT AT THE BAY

For reservations call 438 4444
The Bay Hotel, Victoria Road, Camps Bay

Free Chauffeur

Upper Class

Free chauffeur-driven transfers at both ends. That's added convenience in any currency. London - Johannesburg, daily. Call (021) 419 9382 or your travel agent

virgin atlantic



Biko's widow says officers are still lying about

BD 11/9/97

PORT ELIZABETH — Policemen who tortured and killed Steve Biko 20 years ago were still lying about his death, his widow and a family lawyer said yesterday.

They were speaking after the first day of hearings into an appeal for amnesty by five policemen, during which the first witness still claimed Biko's death was an accident and the result of self-inflicted wounds.

"I think you would all agree after today on the very clear extent to which they are prepared to continue lying. We are no closer to the truth," said family lawyer Peter Jones.

Asked if she had learnt anything new from the day's testimony, his widow Ntsiki Biko said "No, they're going to lie even more so they are granted amnesty. I am feeling bad because they know what they are saying is not the truth. They must come up with the truth."

Col Harold Snyman, who led Biko's in-

terrogation, said Biko had been deprived of sleep while in detention to soften him up prior to an intensive interrogation intended to make him confess to fomenting anti-government violence and divulge the secrets of the liberation struggle.

Standing naked and prevented from sitting down, Biko had become aggressive, Snyman said.

He "went wild" and attacked his questioners, sparking a struggle which ended

It was never the intention of Biko's family to oppose amnesty for the five policemen involved and is pressing for their criminal prosecution.

When their lawyer George Bizos asked Snyman if he believed Biko's death came about in a "police action carried out in good faith" he replied in the affirmative. Asked if he meant four policemen had acted in "self-defence" against one man, he again replied in the affirmative.

Snyman said he now believed his actions were wrong and he begged forgiveness. He said Biko enjoyed "enormous regard among (black) masses" and was considered one of the most important black activists in the country at the time.

Biko's arrest was carried out in defiance of apartheid, applied by the National Party government of the day and supported by Snyman's own Dutch Reformed Church, he said — Reuter

(252)

husband's death

TRC to focus on media's role

Sowetan
12/9/97
(252)

More than 300 witnesses are expected to attend the hearings next week

By Khangale Makhado

MORE than 300 witnesses including a number of journalists are expected at the Truth and Reconciliation Commission's three-day hearing on the role of the media, which starts on Monday. The hearing will be held at the SABC, Auckland Park.

TRC spokesman Hugh Lewin said last night the hearing, to focus on the role of both the broadcast and print media during the apartheid era, was being held in response to the large number of submissions received.

The submissions were received from media organisations and individuals and explore the crucial role the media played in helping form public opinion. Lewin said also under scrutiny would be the way in which the state used the media as well as media workers.

Among those journalists who will appear on the ticket of the Forum of Black Journalists (FBJ) are *Sowetan* editor-in-chief Aggrey Klaaste, night editor Mike Tissing and associate editor Don Mattera.

Other journalists include Jon Qwelane, Joe Latakgomo, Dennis Gruywagen and *Enterprise* magazine boss and chairman of the South African National Editors' Forum Thami Mazwai. Bhekis Khathide and Thembi Majombozi will give testimony on the broadcast media.

On Monday the emphasis will be on broadcasting, especially the South African Broadcasting Corporation, which was accused of being sympathetic to the former government. Lewin said two "window" cases - the experiences of the BOP Broadcasting Corporation and the ANC's Radio Freedom would also be considered.

On the second day the commission will look at "the media and the State" and Wednesday, the last day, will focus on the print media.

Truth still elusive in Biko hearing

(252) Sowetan 12/9/97

By Simon Zwane

A CLOUD which had hung over the beginning of the Stephen Biko Week started to clear on Wednesday as the Truth and Reconciliation Commission's amnesty committee began listening to appeals of five former security policemen relating to his death

The heavens began to smile on the Eastern Cape city of Port Elizabeth with the return of warm and sunny weather

Inside the Centenary Hall in New Brighton, the air was tense with the anticipation that the cloak of secrecy which apartheid security police had thrown around Biko's death exactly 20 years ago this week would be cleared

But, for the Black Consciousness leader's widow Nisiki is there any hope that after two decades of lies and covering up the true story will finally be

told?

For her son Nkosinathi, who was only six years old when his father died, the hoping has just begun

From the start of the hearing it was clear that former policemen Harold Snyman, Daniel Siebert, Jakobus Beneke, Rubin Marx and Gideon Niewoudt did not intend to deviate substantially from the cover-up story they related to the inquest which probed Biko's death in 1977

Advocate George Bizos, who represented the family at that inquest, and again appeared for them at the hearing, said the applicants' new evidence had "merely been modified to try to explain away some of the concrete evidence which did not fit the false version given to the inquest"

Bizos found "more than 80 lies" in the statement by the former policemen and said that they had changed their story to fit medical evidence which had

proved that Biko had died of head injuries

Major Snyman, who was the most senior of the policemen interrogating Biko, was the first to testify

He admitted that they had connived to cover up the real facts surrounding Biko's death and that they had lied to the inquest

Major player

The major player behind this deception was Colonel Piet Goosen, who had since died, he said

Snyman told the committee that Goosen had called them to his office on the Saturday after Biko's death and said the incident could be an embarrassment for the then National Party government and the Security Branch

It was at this meeting that the decision was taken to conceal the true facts surrounding the death and to manage the incident in such a way as to protect

the interests of the government

This is perhaps the only truth that has emerged from the hearing

It was probably convenient for Snyman and his cohorts to implicate Goosen because he is dead and there is no possibility of testing the evidence against him

However, beyond this, Snyman refused to reveal anything new

With his hands held firmly together in front of him, his eyes cast down, probably to avoid making eye contact with Mrs Biko sitting across from him, he stuck to the old story that there was a scuffle between Biko and his interrogators shortly before Biko fell to the floor, knocking his head against the wall in the process

The scuffle apparently started when Biko insisted on sitting down during the interrogation, against the wishes of his interrogators

Though the officers he allegedly

fought also fell, they did not suffer any injuries. And although punches were exchanged, no one was struck, he said

The thrust of Snyman's evidence was to show that Biko's death was an accident brought about by his own aggression and refusal to cooperate with his captors

Such was Snyman's determination not to admit police complicity that he refused to acknowledge that there was a piece of hosepipe in the torture room under his control

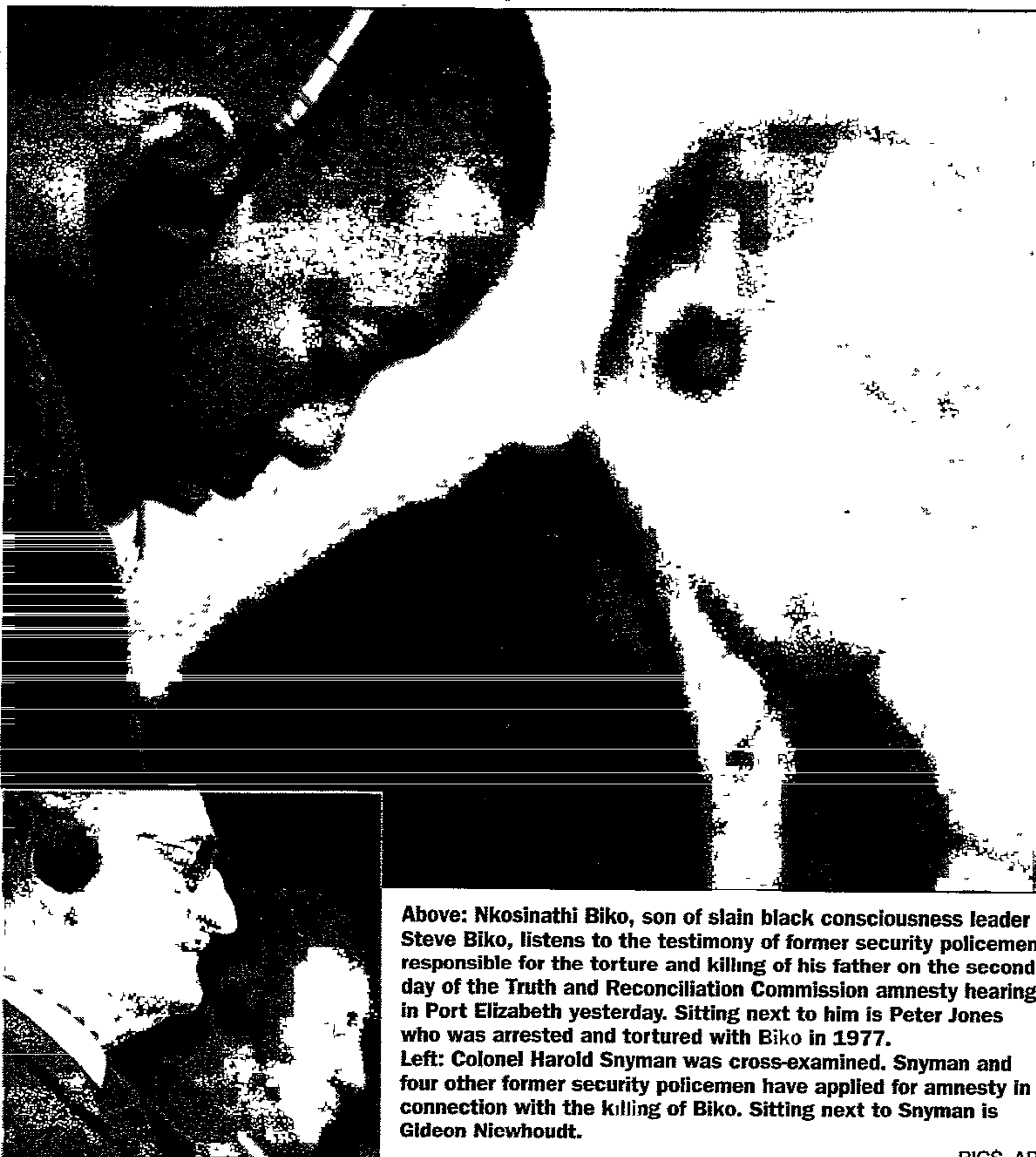
He steadfastly refused to admit that this hosepipe was used to assault Biko during the so-called scuffle

However, his fellow officers, who participated in the assault, admitted that the pipe was used against Biko

Confronted by lies and inconsistencies in his testimony, Snyman squirmed and eventually pleaded for the proceedings to be adjourned

We broke all the rules - Biko cops

Sametun 12/9/97 (252)



Above: Nkosinathi Biko, son of slain black consciousness leader Steve Biko, listens to the testimony of former security policemen responsible for the torture and killing of his father on the second day of the Truth and Reconciliation Commission amnesty hearing in Port Elizabeth yesterday. Sitting next to him is Peter Jones who was arrested and tortured with Biko in 1977. Left: Colonel Harold Snyman was cross-examined. Snyman and four other former security policemen have applied for amnesty in connection with the killing of Biko. Sitting next to Snyman is Gideon Niewhoudt.

By Simon Zwane

A FORMER security policeman confessed yesterday that police regulations were blatantly flouted in the treatment of political detainees during the apartheid era

Giving evidence in support of his amnesty application, Daniel Siebert told the Truth and Reconciliation Commission's amnesty committee in Port Elizabeth that it was against police regulations to deny detainees the opportunities to sleep in order to extract information from them

Siebert and his former colleagues, Harold Snyman, Jakobus Beneke, Rubin Marx and Gideon Niewoudt, are applying for amnesty in connection with black consciousness leader Steve Biko's death in detention

Earlier Snyman conceded under cross-examination by Advocate George Bizos, representing the Biko family, that it had been wrong to assault Biko

Snyman admitted that the police's explanation that Biko was assaulted to restrain him was laughable. He also agreed that beating Biko would only have served to infuriate him

Torture detainees

On Wednesday Snyman maintained throughout his evidence in chief that Biko was injured during a scuffle with four security policemen

He also claimed that he had seen Biko bump his head against the wall. Yesterday he said he had heard the sound of Biko's head hitting the wall

He failed to tell the committee which National Party (NP) politician told him that it was acceptable to beat or torture detainees

He said although the politicians

never mentioned anyone specifically; "it was however clear from their statements that they placed pressure on us to bring the situation under control"

Siebert told the committee that his commander, Colonel Piet Goosen, had instructed him to interrogate Biko intensely and not allow him to sleep in order to break his resistance

He said he was influenced by former prime minister John Vorster and former president CR Swart

He met Vorster regularly at which time they discussed the prevailing security situation in the country

Eliminate violence

Vorster told him at one of these encounters that the situation in South Africa needed serious attention to eliminate violence "because it was damaging to the image of the country"

Siebert described Goosen, who has been accused of covering up the killing, in glowing terms

He said Goosen was a father figure and a strong leader who believed in the politics of the day

Goosen never stayed in his office and was always in the frontline with his subordinates, even in serious unrest situations

There will be no amnesty committee hearing today, the day on which Biko died 20 years ago, as a mark of respect to him, the TRC said

President Nelson Mandela will unveil Biko's statue in front of the East London city hall and rename a bridge after the slain BC leader.

The Ginsberg cemetery in which Biko is buried and his house in King William's Town will be declared national monuments

● See pages 7, 10 and 11.

PICS AP

Truth Commission: Chilling revelations have emerged from the Steve Biko amnesty hearing this week, says Robert Brand

INSIDE

On Monday: A preview of Cosatu's sixth annual congress which starts in Johannesburg next week

Questions on Biko's death still unanswered

(252)

Raw 12 | 9 | 97

Details on how Black Consciousness leader died have emerged during the TRC amnesty application by his police interrogators, but the truth has still not been found

By Robert Brand
Port Elizabeth

What really happened to Steven Bantu Biko? The story told to the Truth and Reconciliation Commission by former policemen applying for amnesty this week contained an element of *deja vu*.

It was substantially the same account they gave to the inquest into Biko's death 20 years ago that he had been involved in a "scuffle" with his five interrogators, and that he had somehow injured his head during this "scuffle".

But there were some important differences.

At the inquest, police testified that Biko was interrogated without incident on September 6, 1977. During the interrogation, he was confronted with admissions by some of his associates, and admitted his involvement in the preparation of "inflammatory" pamphlets.

He was held overnight, and the interrogation continued at 7 Lam on September 7. It was almost immediately interrupted by a violent outburst from Biko who, with a "wild expression in his eyes", attacked his five interrogators. It took several minutes to restrain him, and in the process he sustained a head injury. They shackled his feet to a metal door grille.

Major Harold Stryman, who was in charge of the interrogation, summoned his superior, Colonel Piet Goosen, who decided to call a doctor. District Surgeon Dr. Ivor Lang arrived two hours later, examined Biko and found no apparent injury. He was removed to the prison hospital at Sydenham Prison in Port Elizabeth.

From September 7 to September 11, Biko's condition deteriorated. He was examined again by Lang, Lang's state colleague Dr. ...

made a swinging movement towards me. It appeared that he was trying to slap me, but he missed. I immediately pushed at his chest."

A general melee then broke out. Warrant Officer Jacobus Benecke, who had been watching events from the door, suddenly charged Biko, causing him to stagger back towards the wall", according to Snyman. Detective-Sergeant Gideon Neuwoudt and Warrant Officer Rubin Marx joined in. "The four of them tried to push Biko into a corner so that they could handcuff him."

Neuwoudt admits having used a length of hose pipe during this struggle. "I struck Biko several times across his back with the hosepipe to try to restrain him and I finally managed to grab hold of him."

"Benecke, Stebert and I manhandled him into the corner, and in the process he landed against the wall. His head hit the wall, and he collapsed to the floor. There was no intention to ram his head against the wall, it was a result of the struggle."

Stebert's description of the struggle is more vivid. "A full-scale fight developed during which we wrestled and pushed and even traded blows. We grabbed Biko and ran with him into the wall. His head hit the wall and he collapsed."

Biko seemed "dazed and confused", Snyman said, and he called Goosen Goosen, suspecting that Biko was feigning injury. He ordered them to chain him to the grille and leave him there until he recovered enough to resume interrogation. Neuwoudt and Benecke guarded him.

According to Neuwoudt, they noticed something seriously wrong. "His speech was incoherent and he was slurring his words. I reported this to ... I reported this to ... who heard the ...



This far from the truth. George Bizos, advocate for the Biko family, during the amnesty hearing of five former security policemen who have applied to the Truth and Reconciliation Commission for amnesty for their part in the death in detention of Black Consciousness Movement leader Steve Biko in September 1977.

GARY BERNARD

none of them reached a firm diagnosis
On September 11, when Biko was near-ly comatose, the doctors decided he should be hospitalised
Goosen then ordered Biko to be transported to Pretoria

Biko and ran him into the wall

99

He was taken naked in the back of a Land Rover On September 12, a few hours after arriving at the Pretoria prison hospital, he died

This week, however, Snyman admitted that the incident which led to Biko's fatal injury took place on September 6 and not on September 7. A fight ensued minutes after the interrogation started - Biko had made no admissions - and his interrogators ramméd his head against a wall in an effort to restrain him

His admission means that Biko was kept in the interrogation room with a serious head injury for 24 hours before Lang was called to examine him. This seems a gross dereliction of duty by the police, made worse by the fact that, from the morning he sustained the injury until that evening, he was chained upright, hand and foot to the metal door grille.

The written statements of the other applicants add details concealed at the inquest. The "scuffle" did not start with Biko attacking the interrogators
Captain Daantjie Stebert, who started the questioning on the morning of September 6, says that he "lost (his) temper" when Biko insisted on sitting down on a chair in the room
"I lost my temper and grabbed Biko by the chest and pulled him off the chair. I shouted at him that I had already told him not to use the chair. Biko also seemed to lose his temper and he pushed the chair in my direction. He

for a doctor to see Biko." This was in the afternoon of September 6, Lang arrived at 10am the next day

Although the testimony before the TRC provided more detail about the circumstances in which Biko was injured, several questions remain unanswered
Why was Biko transported to Pretoria, when he was clearly in a serious condition, rather than hospitalised in Port Elizabeth?

Snyman could not answer The Biko family lawyer, George Bizos SC, suggested it was because Biko was well known in Port Elizabeth and Goosen feared someone might recognise him and make his condition public

Why did Police Minister Jimmy Kruger issue a statement the day after Biko's death suggesting he had gone on a hunger strike and starved himself to death?

Snyman testified that Goosen ordered all the policemen involved to make false statements and to lie at the inquest, however, he said he did not know where Kruger got the hunger strike theory from

Why was Biko kept naked for most of his detention? Snyman said the order came from "head office", and suggested it was to prevent detainees from using clothing to commit suicide

Why did Lang, who examined Biko on September 7 in the presence of Goosen, sign a medical form in which he stated Biko had no organic injuries? Bizos suggested it was because Goosen did not suspect Biko would die, and wanted "proof" that he had not been assaulted

More evidence will be needed to answer these questions when the hearing resumes later this year.

Keeping you up-to-date
Every Friday, The Star will produce a news feature to keep you up to date with the Truth and Reconciliation Commission. The feature, produced by our team of specialist TRC reporters, will provide all the background, the news and the insights you need to keep you in the picture as the dramatic story of our past unfolds

Small report grew to 'international storm of protest'

By ANDRE PRETORIUS
London

A small report relegated to the inside page of The Times can hardly be reconciled with references to an "international storm of protest" or one of the five most important events in the history of the anti-apartheid struggle
Yet David Kenyon, a London librarian and anti-apartheid activist, reckons that was, initially, how important the death of Steve Biko, 20 years ago this week, was viewed
Wendy Woods, who together with husband and former editor Donald probably did more to publicise his death than anybody else, concurs

Initially, his death was a 'non-event'

Poring over newspaper clippings from the British press in September 1977, one is struck by the impression that Biko's death was initially a "non-event". Newspapers reported it but, for most of the first week, coverage was very limited
The deceased Black Consciousness leader was referred to as "the black activist who died in detention". It was only in the weekend papers that

analyses and comment started appearing, including some by Donald Woods

Subsequently Biko's death became one of the defining moments of the liberation struggle and it did, especially at the time of the inquest, create an uproar in Britain

There was even a memorial service for him in St Paul's Cathedral, attended by the then Foreign Secretary David Owen,

despite the fact that before his death, he was largely an unknown quantity to the footsolders of the Anti-Apartheid Movement (AAM) Kenyon, then (as now) a London librarian, was one of them
Ordinary members of this organisation knew little about the young Biko's ideology and actions

"This, he says, was due to the efficiency of the apartheid state's censure and gagging or-

ders
The AAM became aware of Biko's influence as a result of the Soweto uprising a year before his death
Newly-arrived exiles had his name on their lips and they attributed the instruction to Biko's philosophy of "black pride"

According to Kenyon there was general confusion when the news of his death broke
The circumstances of his death were not known immediately, but those who wanted to whip up a storm of protest found a convenient tool in the bungling Minister of Police, Jimmy Kruger

Not a single news report failed to mention his tasteless jokes at a National Party congress about Biko's death or his ludicrous assertion that it was the result of a hunger strike
Kenyon recalls that it was only after the hunger strike claim that realisation dawned that there was something suspicious about the activist's death
That very evening Kenyon joined the picket lines at South Africa House

In Wendy Woods' experience, people in Britain did not

know much about Biko's talent, but there was enough knowledge in political circles to promote his death as a story in the press

Her husband's writing before and after Biko's death and his reputation as a journalist greatly enhanced the impact of the event had on world opinion
She is convinced that the apartheid government did not intend to kill Biko and that their mistake hastened the fall of that system
Kenyon agrees, saying that his death lit a slow-burning fuse that smouldered through the Eighties as a source of strength, because Biko died "on his feet, not his knees"

According to him, there was a feeling in the AAM that the tragic event served to harden the already tough stance of Britain's Labour Government against apartheid
His view is that the Gleneagles ban, agreed at the Commonwealth summit in Edinburgh, was a direct result of Biko's death

Yet, Kenyon and Woods reject the conclusion that in death he was a greater leader than in

old daughter, after which Kruger implied Donald had done it himself to get publicity
She supports the Truth Commission's work and expresses sentiments to which Archbishop Desmond Tutu and the commissioners could warm

"I remember being at the inquest (in Pretoria in 1977) what outraged me most of all and drove me mad was that we did not know the truth
At least knowing the truth will go a long way towards resolving those feelings which rage inside me

"That seems to be the most important thing. Even if the perpetrators go free, it would be a price worth paying for knowing the truth"
But Kenyon says that even if full amnesty frees them, they will still have to live with their consciences

He is organising a commemorative event at the Union Chapel in Islington, London
The first part will consist of readings from Biko's writings and the second of a musical tribute to the new South Africa
Biko died for - Star Foreign Service

Better memories of Room 621 to come

By JOHN YEAD

Room 621 in Sanlam Building, former headquarters of the Eastern Cape security police in Port Elizabeth, was a place loathed and feared by activists held under the apartheid government's draconian security laws

This was the interrogation room where they were questioned and often brutally tortured by their police captors
It was also the place where Black Consciousness Movement leader Steve Biko was kept for hours, manacled hand-and-foot to a security gate across the door, after being struck a blow on the head during his interrogation
The blow was to prove fatal through a massive brain haemorrhage
Today, Sanlam Building is a much happier place. There is

no longer a police presence there - the dreaded security branch has been disbanded - and the building is a student hostel
At a ceremony last weekend, Room 621 was blessed by clerics and officially renamed the Steven Biko Library, although there are no books or shelves there yet

A bust of the Black Consciousness leader by local sculptor and student Mfumelo Melane, who rushed to finish the work in time for the opening, graces the room
The library is a project initiated by the Azanian People's Organisation (Azapo), the political heir of Biko's Black People's Convention, and it is here they want his memory preserved
Project leader Zukile Sinama said the room still brought back unhappy mem-

ories for many former detainees. He said he was tortured there himself in 1978 and held out of the room's sixth floor window by his belt and foot while security police threatened to drop him

"They said, 'Do you want to die like Steve Bantu Biko?' I was screaming and they pulled me back," Sinama said

"So there are bad memories, but it will be much better in the future.
"We want this library to symbolise what Steve Biko stood for and died for. We want children, tourists and adults to get access to his works and we want a collection of his books to be available here

Sinama said Azapo was looking for funding for the library and he believed the provincial and national governments should support the project



Next week

The amnesty committee continues its sitting in the Centenary Hall, New Brighton, Port Elizabeth
Next week, it will hear the amnesty applications of a number of policemen for the murder of three activists known as the Pebco Three, who disappeared in 1985 after going to a meeting with a bogus British diplomat in Johannesburg, a special hearing on the role of the media during apartheid starts on Monday. It is scheduled to continue until Wednesday

Coming up

The Port Elizabeth amnesty hearing continues on September 22, when the committee will start hearing evidence on the murder of three black policemen and an informer known as the Motherwell Four
They will be killed by local security policemen after they had threatened to go public with information about atrocities committed by the police

Biko probably suffered two blows to the head, TRC told

By Robert Brand

Port Elizabeth — Steve Biko may have received two blows to the head during his fatal struggle with his police interrogators, and was unconscious for about a minute afterwards.

Thus was revealed before the Truth and Reconciliation Commission yesterday by Daanpie Siebert, one of five former security policemen applying for amnesty for Biko's death.

Siebert said Biko's head struck the wall of the interrogation room during the struggle and also appeared to hit the floor when he collapsed. Before that, Biko had been punched several times on the

body and arms, and struck across the back with a length of hosepipe, Siebert said.

The struggle started when Siebert lost his temper because Biko sat down, defying an order to remain standing.

In earlier testimony, Harold Snyman, who headed the interrogation team, mentioned only one blow to Biko's head. He also said Biko was conscious after the struggle.

The other applicants Gideon Nieuwoudt, Jacobus Beneke and Rubin Marx will testify when the hearing resumes on December 8.

Siebert said Biko had been unco-operative when the interrogation started shortly after

9am on September 6 1977.

"He walked in and sat down uninvited on a chair. I told him to get up, that we would tell him when he could sit down."

Siebert said Biko refused to answer questions, but was "angry and upset" when they confronted him with information gained from other detainees.

"He again sat down. I lost my temper and pulled him up by his shirt. He stood up, and shoved the chair in my direction as if he wanted to say 'take the chair if you want it'."

"I bent down to stop the chair from hitting my legs, and saw a movement above my head. It appeared to me that

Biko was trying to slap me. I deflected his blow with a push. The push did not make much impression because he was bigger and heavier than me. The next moment, Beneke came in from the side and charged with his shoulder into Biko's body."

A struggle ensued between Siebert, Beneke and Biko. Nieuwoudt joined in, striking Biko with the hosepipe. They punched Biko several times, but Siebert said they did not land serious blows.

The three policemen managed to get hold of Biko around his body and arms, and the group collapsed into the wall. "I saw his head hit the wall, and when we all collapsed on to

the ground I believe his head hit the ground."

When the policemen got up, Biko remained on the ground "in a state of unconsciousness", Siebert said. When he came to about a minute later, he was handcuffed and shackled.

Siebert saw Biko again on September 11, when he and three other policemen took Biko to Pretoria.

By then his condition had deteriorated markedly and he could not walk without assistance, Siebert said. Biko died from brain injuries hours after being delivered to Pretoria.

More reports, pictures

87aw 12/9/97

(252)

The passage of time hands lifeline to Biko killers

MIKE EARL-TAYLOR

Grahamstown - The killers of Steve Biko may never be prosecuted.

As the country and the world this week marked the 20th anniversary of the death of the Black Consciousness Movement leader at the hands of Port Elizabeth security police in 1977, the chances of his killers ever facing criminal prosecution were slim.

By yesterday there was no sign that criminal prosecution in connection with the murder of a man who became an icon of black suffering would be set in motion - and not because of any clause in the legislation dealing with the Truth and Reconciliation Commission.

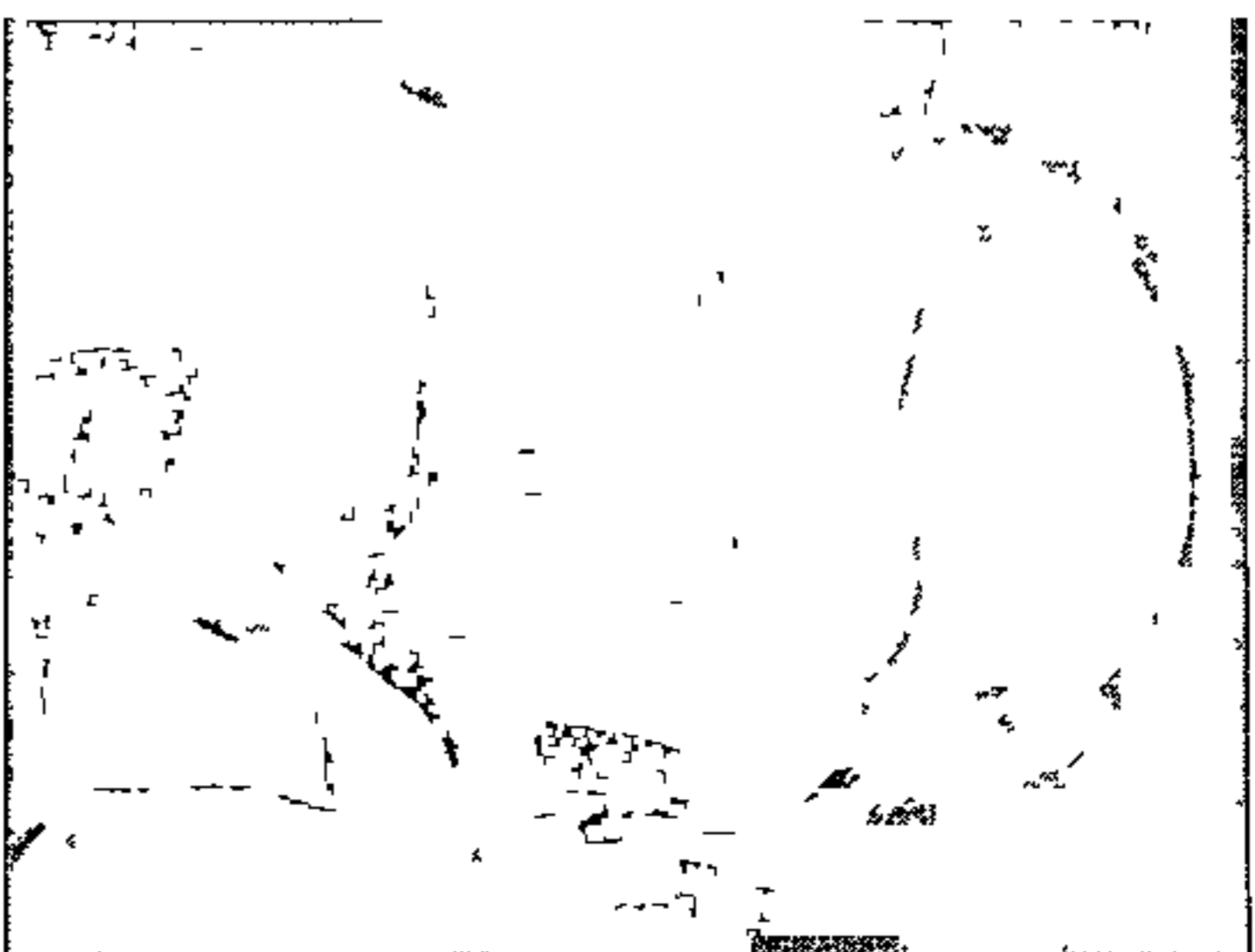
In criminal law it is not permitted to prosecute anyone for murder after 20 years.

This week the world learned how Biko was murdered, how people had lied at his inquest and how facts had been buried.

Former policemen involved in a beating Biko received shortly before his death gave evidence to the TRC.

They told how a gang of white policemen rammed Biko's head into a wall and left him to die in the back of a Land Rover as they drove him to Pretoria.

Among the policemen who beat Biko 20 years ago were Daantjie Stebert, Harold Snyman, Gideon Nieuwoudt, Rubin Marx and Jacobus



Facing the facts: Nkosinathi Biko, left, Daantjie Stebert, centre left, Gideon Nieuwoudt and Dr Benjamin Tucker, right, during this week's TRC hearing

AR 13/9/97 (252)

Beneke

This week the five policemen came to tell the truth in the hope of getting amnesty. They said they were involved in a scuffle with Biko, that Biko had fought back and had tried to hit them with a chair.

Sergeant Nieuwoudt, the man widely regarded as the "torturer" of the Eastern Cape in the 1970s and 1980s, then lashed Biko with a solid hosepipe across the head.

Then, says Lieutenant Stebert, they grabbed Biko and slammed him head-first into a brick wall. They dragged Biko up, shackled

him by his hands and feet to a security gate and left him there overnight.

Only much later did a doctor, district surgeon Ivor Lang, arrive. He examined Biko and gave him a clean bill of health.

The policemen then took Biko to North End Prison, known as "Roof Hell", where he received minor medical attention.

Lieutenant Stebert said he found Steve "looking like an old man".

"He was shuffling and mumbling and frothing at the mouth. We had to support him because I was afraid he would fall."

"We placed him in a police Land Rover and when we stopped in PE, for some food, I noticed he was shackled and naked."

They drove into the night and nine hours later handed him to Pretoria Central soon after sunrise.

Later that day, Steven Bantu Biko died, alone, on the cement floor of a cell.

When advocate George Bizos grilled the policemen this week, Lieutenant Snyman's complexion turned ashen. He clasped his hands and rung them as if to rub something off.

Speaking almost manfully, Lieuten-

enant Snyman admitted they had been terrified that word of their deed and Biko's appalling condition would spark a rebellion.

As Lieutenant Snyman grimly clung to his version of events, Bizos slowly tore his story apart.

The man whose name once struck terror in the hearts of black people finally gave up. He cut a pathetic figure as he pleaded with Mr Justice Hassan Mall: "Your Honour, I cannot continue with this cross-examination. I am an old man and I am very tired. I am taking medication and I cannot continue." - ECN

Dying Biko was carried into jail

Security cops dined as injured leader lay in Land-Rover

Port Elizabeth - Black consciousness leader Steve Biko was in such poor health when he arrived at Pretoria Central Prison in the back of a police Land-Rover he had to be stretchered in.

The critically injured Biko, who had received a serious head injury during interrogation, was transferred to the Pretoria jail because it had better medical facilities than Port Elizabeth prisons.

But the security police who drove him there stopped soon after setting out, at Bluewater Bay - only about 20km from Port Elizabeth - to eat before driving through the night with the near-naked Biko lying on cell mats under blankets in the back.

Biko died less than 24 hours after arrival at Pretoria.

This was testimony to the Truth Commission's amnesty committee yesterday by Daniel Siebert, one of five former security police who are seeking amnesty for assault and culpable homicide in connection with Biko's interrogation and death 20 years ago today.

The others are interrogation leader Major Harold Snyman, warrant officers Jacobus Beneke and Ruben Marx, and sergeant Gideon Nieuwoudt.

Brigadier Siebert, a captain at the time and now retired, told the commission how he and Biko fought during an interrogation session on September 6 1977 in the Port Elizabeth security police headquarters in Sanlam Building.



ON THE TRUTH COMMISSION

He said Biko had appeared "anxious and somewhat shocked" when confronted with details of his alleged involvement in the production and distribution of inflammatory pamphlets "I could see that he realised we knew something I could see it in his eyes".

Brigadier Siebert said that when he showed Biko a statement by his comrade, Peter Jones, who had been arrested with him at a roadblock near Grahamstown three weeks earlier, Biko had become anxious and cross, and had sat down on a chair - the second time he had done that against his interrogators' wishes.

"I got cross and grabbed his shirt and lifted him up" Biko had already started rising from the chair when he grabbed him "I couldn't have picked him up. He was too big".

Biko then picked up the steel chair he had been sitting on and slung it at him, Brigadier Siebert said.

"I checked it with my hands. I was bent forwards towards him and I could see a movement above my head and I blocked it. It looked as if he (Biko) had aimed a smack or a fist blow at me, and I pushed him with a checking movement."



"It was clear to me we had a problem with him and he was becoming aggressive. From his side there were blows and pushing to keep us away, and we attempted to grab him and aimed a few blows at him. I don't believe anyone managed a hard blow with his fist."

Brigadier Siebert said he had seen Biko hit his head against the wall during the struggle. He added that he had not intended a sentence in his written amnesty application to imply that he and two colleagues had run Biko against the wall "like a battering ram", as suggested by George Bizos, SC, appearing for the Biko family.

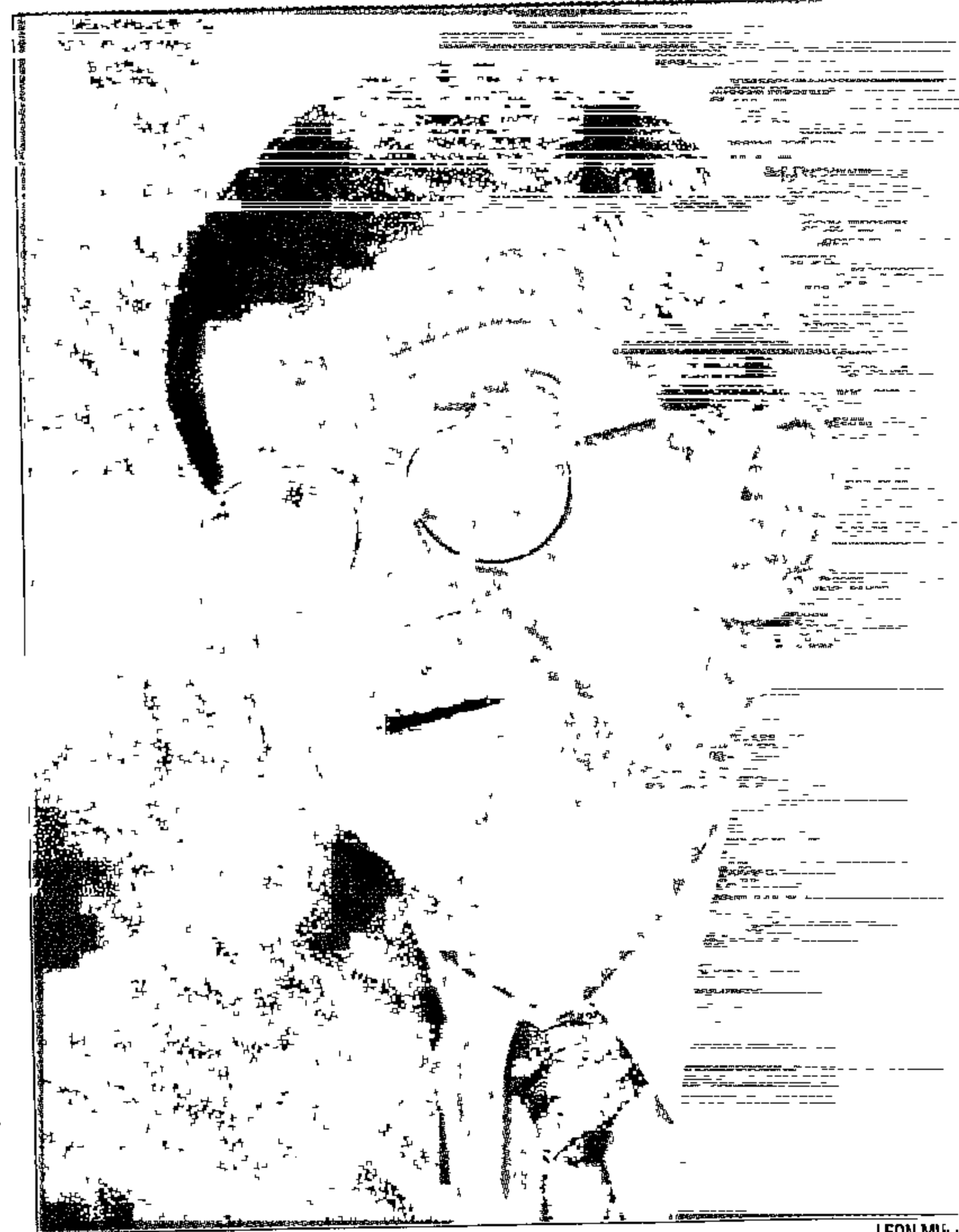
Biko had initially appeared faint and disoriented after hitting the wall and falling to the ground with the three policemen on top of him, Brigadier Siebert said.

When he appeared to be coming to his senses, Brigadier Siebert had ordered colleague Gideon Nieuwoudt to put handcuffs and leg-irons on him and, a few minutes later, to manacle him hand-and-foot in a standing position to the security gate in the office.

"We tried to talk to him again but there was no reaction and it looked to me as if he had just switched off," Brigadier Siebert said.

The hearing has been adjourned to December 8.

■ Today, the 20th anniversary of Biko's death, President Mandela will visit King William's Town and East London. Among other activities, he will visit Biko's grave and unveil a statue of him in East London.



Daniel Siebert: "I could see he realised we knew something I could see it in his eyes"

Special service, party to welcome Tutu back from US

Port Elizabeth - Truth Commission chairman Desmond Tutu is due back in South Africa on Sunday from the United States where he has been having treatment for prostate cancer for the past two months.

Archbishop Tutu will attend a special

thanksgiving church service in Soweto and later a private welcoming party given by friends.

He is due to attend at least the first session of the commission's three-day institutional hearing for the media beginning in Johannesburg on Monday.

The five-week hearing by the commission's amnesty committee, which began in Port Elizabeth this week with amnesty applications by five former security policemen for the assault of Eastern Cape activist Mkuseli Jack and for culpable homicide and assault relating to Steve

Biko's interrogation and death in detention, has been altered considerably because of lawyers' schedules.

The hearing on the murder in 1985 of the Pebco Three - activists Sipho Hashe, Qaqawuli Godolozu and Champion Galela - has been postponed to early November and that on

the murder of Matthew Goniwe and three Cradock colleagues to an unspecified date next year.

The amnesty committee will hear amnesty applications relating to the murder in 1982 of two Port Elizabeth youth leaders in the week beginning on September 22.

'BIKO RECALCITRANT'

'Torturer' tells of first blow

CT 12/19/97 (262)

PORT ELIZABETH: Another former policeman denies torture, Special Assignments Team **ROGER FRIEDMAN** and **BENNY GOOL** report

MR DANIEL Siebert yesterday became the second member of the Steve Biko interrogation squad to absolve himself before the Truth and Reconciliation Commission's amnesty committee of any culpability for the Black Consciousness leader's death, 20 years ago today

Siebert — a security police captain in 1977, and second-in-command of the interrogation team under then-Major Harold Snyman — agreed with Snyman's earlier submission to the committee that Biko's injuries were incurred during a "scuffle" in the interrogation room after Biko became violent, and not under torture.

His evidence — followed by cross-examination by Mr George Bizos for the Biko family, which is opposing the amnesty applications — will resume on December 8

Siebert told the committee that Biko had refused to stand while being asked questions, sitting down on a chair and refusing to offer any responses

He claims to have become infuriated with Biko's alleged recalcitrance, grabbing the unchained prisoner by the shirt and pulling him to his feet

This apparently prompted a violent response from Biko, which in turn led to his having to be "subdued" by three security policemen, while two others stood by and watched

According to Siebert, Biko had become "very upset and angry" when presented with statements implicating him in alleged political crimes

Siebert admitted to landing the first blow in the alleged scuffle — which apparently included a rugby-style shoulder charge by Mr Jakobus Beneke and several lashes with a length of hose-pipe by Mr Gideon Niewoudt — and ended in Biko's head "accidentally" striking the wall

Biko died six days later, according to the then Minister of Police Jimmy Kruger, of the effects of a hunger-strike

Medical evidence later revealed that he died of brain damage

Siebert, who retired from the police in 1995 with the rank of brigadier, was at pains to persuade the committee yesterday that his actions which led to Biko's fatal injuries were undertaken in good faith in defence of the National Party government, of which he considered himself a "very loyal member"

As a member of the VIP security unit he had come into contact with former state president CJ



THE ASSAILANT: Daniel Siebert



THE LAWYER: George Bizos

"Blackie" Swart, and regularly, with former prime minister Balthazar John Vorster

He had been responsible for security at Vorster's holiday home at Oubos, and his political mindset was "influenced" by their "regular discussions" on political and security-related matters, Siebert said

Among the things Vorster communicated to him, was that the security situation was becoming "intense" and that "serious attention" would have to be paid to controlling it, as it was politically and economically damaging to the country, he said

"I grew up in a strictly conservative, Christian household

"I am a member of the Dutch Reformed Church, have been actively involved in the Dutch Reformed Church since my childhood, and have served on the church council for the past 26 years," he said by way of personal introduction

"I grew up in the apartheid years," he said

"The apartheid policy was therefore acceptable to me and justifiable because I was of the opinion the system was necessary for the continued existence of whites"



THE SON: Nkosinathi Biko

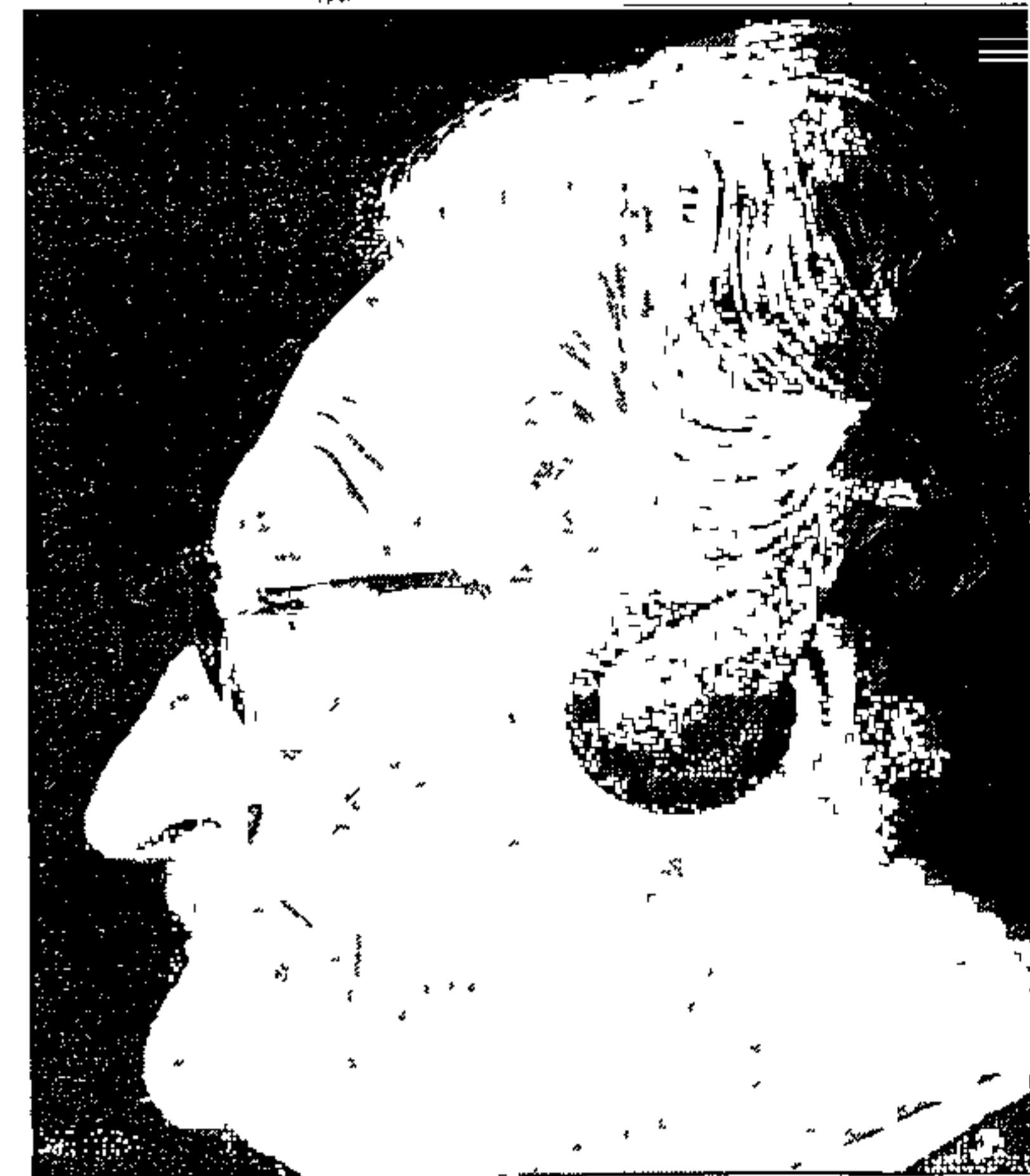
Twentieth anniversary today of Biko's death

TWENTY years ago today Black Consciousness Movement leader Steven Bantu Biko died in Pretoria of injuries inflicted on him by members of the security police in Port Elizabeth.

President Nelson Mandela will today unveil a commemoration plaque to Biko at the entrance to the Ginsberg cemetery near King William's Town where he is buried. The inscription on the plaque reads: "It is better to die for an idea that will live than to live for an idea that will die."

Mandela will then visit the graves of slain ANC leaders Mr Griffiths Mxenge and his wife, Victoria, before travelling to East London to unveil a statue of Biko outside the city hall.

The president will also unveil a set of plaques renaming the John Vorster Bridge in East London, the Steve Biko Bridge.



THE INTERROGATOR: Harold Snyman

Snyman had role in 8 killings

PORT ELIZABETH: Steve Biko interrogation team leader Colonel Harold Snyman is seeking amnesty for his role in the killing of eight Eastern Cape activists

This emerged during his cross-examination by Mr George Bizos before the amnesty committee of the Truth and Reconciliation Commission yesterday

Snyman has lodged applications in connection with the Cradock Four and Pebco three killings in 1985

It also emerged that in December 1976 Snyman was closely connected to the death in detention of teacher George Botha, who allegedly jumped to his death down a stairwell while being escorted by Snyman from his Despatch jail cell

to an interrogation session at security police offices on the sixth floor of the Sanlam Building

Botha, like Biko, died of brain injuries Snyman was absolved of blame at the inquest into Botha's death, and is not seeking amnesty in connection with this case

Bizos, who is opposing amnesty applications by Snyman and four other former security policemen on behalf of the Biko family and Mr Peter Jones, who was arrested with Biko, spent much of yesterday morning questioning Snyman about his political motivation

Amnesty applicants have to satisfy the committee that the crimes for which they are applying were politically motivated

Snyman submitted that at all

times during his career — and specifically during events surrounding Biko's death and its official cover-up — his actions were "bona fide" in the interests of the NP government and the security police

But, Bizos put to him "If the public record shows that torture was considered unlawful, unjustifiable, and was frowned upon by leaders of the National Party, you can hardly say you were furthering the aims of the National Party in 1977 by mistreating detainees, and specifically Mr Biko"

Snyman said politicians had not "explicitly" instructed security force members to torture detainees "Pressure was put on us by the government and head-office to rescue the situation"

A total restructuring of the Western Cape cabinet is on the cards after the ruling National

rainbow

TRC urged to probe Cebekhulu spy claim

ARC 12/19/97

(252)

The African National Congress and its Women's League have urged the Truth and Reconciliation Commission to investigate claims that Katiza Cebekhulu, the fugitive who has accused Winnie Madikizela-Mandela of murder, had been a police spy and involved in third-force violence in KwaZulu Natal. Meanwhile, a former Truth Commission investigator has accused

Cebekhulu's protector, British MP Emma Nicholson, of orchestrating a deception. In separate statements, both the ANC and the ANCWL, of which Mrs Madikizela-Mandela is president, questioned Cebekhulu's credibility, but pledged support for the Truth Commission. Johannesburg Attorney-General Andre de Vries yesterday withdrew a warrant of arrest for Cebekhulu to

facilitate his return to South Africa for an amnesty hearing. Cebekhulu - a co-accused in Mrs Madikizela-Mandela's kidnapping trial involving 13-year-old activist Stompie Seipei - disappeared on the eve of court proceedings and was found in a Zambian jail by Ms Nicholson.

He claims he was abducted by the ANC to prevent him from testifying against Mrs Madikizela-Mandela and has since been in hiding under an assumed name and under Ms Nicholson's protection. While the ANC raised questions about Cebekhulu's credibility, Ms Nicholson came under fire from former TRC investigator Piers Pigour, who headed an investigation of Mrs Madikizela-Mandela. Cebekhulu's position would not be helped by Ms Nicholson's "orchestrated deception", he alleged - Sapa.

News 3

Verryn doubts TRC can crack Winnie allegations

(252)

TROYE LUND

ET 12/9/97
THE priest who was accused of raping Mr Katiza Cebekhulu and Stompie Seipei Moeketsi is cynical that the Truth and Reconciliation Commission (TRC) will have the integrity and strength to crack allegations of murder against Ms Winnie Madikizela-Mandela that have been made in a book presented to the TRC this week.

Shortly after Gauteng attorney general Dr Jan D'Oliveria announced that the warrant for Cebekhulu's arrest would not be executed in order for him to come out of hiding and give the TRC the testimony that was supposed to be given at Madikizela-Mandela's kidnapping and assault trial in 1991, Bishop Paul Verryn said.

"Clearly this thing is fraught with problems. Putting the allegations made by the book to the test will prove particularly difficult because they involve the leadership of this country.

"It will require enormous strength and integrity to call this leadership into question," Verryn said.

Just before he was due to appear in court in 1991, Cebekhulu was spirited away and imprisoned in a Zambian jail for three years without trial.

The book, entitled *Katiza's Journey — Beneath the Surface of South Africa's Shame*, claims that Cebekhulu witnessed Madikizela-Mandela murder Stompie, accuses her of other murders and kidnappings and details a reign of terror she unleashed in Soweto during the 1980s.

Another of the book's claims is that top ANC politicians arranged for Cebekhulu to be kidnapped and imprisoned — in accordance with a deal they had struck with former Zambian President Kenneth Kaunda.

Meanwhile, Verryn confirmed yesterday that the TRC visited him but he had not been asked to testify. If asked to do so, Verryn said, he would be "obliged" to comply.

Verryn was unwilling to say whether or not Madikizela-Mandela had instructed Cebekhulu to accuse him of sodomising the boys in his care, as Cebekhulu now alleges.

"All I know is that it was Winnie's lawyers who laid the charge and that the charge was laid the night before Dr Abu Baker Asvat's murder," he said.

Cebekhulu alleges in the book that Madikizela-Mandela arranged Asvat's killing because he had refused to sign a medical certificate confirming that Cebekhulu had been raped.

Asvat had also seen how badly Stompie had been beaten when he



MURDER ACCUSED Winnie Madikizela-Mandela

was called to Madikizela-Mandela's home to attend to the teenager.

Verryn's last encounter with Cebekhulu was in 1991, just before he was spirited away and imprisoned in Zambia.

The 20-year-old youth returned to Verryn's house and demanded that he be given the clothes he had left there in 1988 after accusing Verryn of rape.

That encounter was a very "acrimonious one" and Cebekhulu threatened to kill him because the clothes he had left at the house in 1988 were no longer there, Verryn said.

Former British MP, Ms Emma Nicholson, who sheltered Cebekhulu after he was let out of the Zambian jail in 1992, said top ANC politicians remained "deliberately deaf" to every attempt she made to have Cebekhulu's story revealed. The book was written as a last resort.

Nicholson said yesterday that she knew nothing of the decision not to arrest Cebekhulu when he returned to South Africa but that she had received a letter two weeks ago from D'Oliveria which assured her that there was "absolutely" no way around the warrant.

The letter was one of several in reply to requests by her for Cebekhulu not to be arrested in South Africa.

The ANC has welcomed the news of Cebekhulu's possible return saying the TRC remained the only legitimate forum to determine the truth of his allegations.

Meanwhile, President Nelson Mandela has said that he will not comment until he had finished reading the book, Reuters news agency reports.

"It would be better not to say anything. I am reading the book at the present moment. It is premature to comment until I have read the whole book," he told reporters who questioned him on the allegations.

HUMAN RIGHTS RE-ORIENTATION PROGRAMMES

Judges to learn 'new culture'

JURISTS WHO SERVED under the apartheid regime in many cases still carry with them the baggage of the past. It is time to re-educate them in the ways of constitutional democracy, says Justice Minister Omar. **JOVIAL RANTAO** reports.

SOUTH African judges and magistrates appointed during the apartheid era are to be taken through a programme of re-orientation to help them to adopt a culture of justice and human rights brought about by the new Constitution, Justice Minister Mr Dullah Omar said yesterday

The judges and the magistrates would participate in a five-year programme costing R15 million, which has been paid for by the Canadian government

Some magistrates have already started taking part in the programme, which is provided by the Justice College in Pretoria

Omar told a media briefing in Parliament that the orientation programme was necessary to eliminate the cultures of racism, repression, sexism and intimidation that have persisted since the 1994 elections

The programme was also necessary because some of the judiciary had served when the rights of ordinary citizens were secondary "if they were considered at all"

Omar said the judges and magistrates had served when the security of the former government was paramount and at a time when only members of a specific race were represented in Parliament and appointed to the bench

"They served in a system of distorted Parliament. Whatever the government did was regarded as law and binding on everyone. The functions of the courts were very different from what they are now," Omar said

"The courts during the apartheid era interpreted their own roles as being to implement the law and not make the law. Whether there was



TO RE-EDUCATE JUDICIARY:
Justice Minister Dullah Omar

justice was another matter

"Justice was irrelevant, even though individual magistrates and judges did try to ensure that there was justice in the South African courts

"But the culture of repression and discrimination did not disappear when elections took place in 1994. That culture has persisted and needs to be replaced by a new culture and new approach

"That can only take place if we have orientational and educational programmes. All of us need that kind of education and orientation," Omar said

"Many magistrates and prosecutors have rendered outstanding services and I thank them for the role they have played. I must say it is very painful to receive com-

plaints of racism and arrogance in some courts and attitudes that intimidate people. Therefore it's very important to ensure that the values of the new Constitution begin to pervade all courts in the country," he said

The Truth and Reconciliation Commission has indicated that it will probe the role of the judges and magistrates in human rights violations during the apartheid era

Omar also revealed that magistrates and prosecutors were undergoing refresher courses in criminal justice and civil matters. Seminars were also being organised on violence against women and children, and child abuse

He said the government would spend R54,4 million to refurbish and provide electricity, water and sewerage to court buildings around the country

Several Cape High Court judges contacted by the Cape Times last night declined to comment

However, Mr Vincent Saldanha, National General Secretary of the National Association of Democratic Lawyers (Nadel), welcomed the initiative and urged all judges and magistrates to give the programme their fullest support and participation

"Nadel believes that the new constitutional order presents immense challenges for all of us — not only judges and magistrates — to embrace the values on which the Constitution is premised

"In the same breath we also call upon magistrates, judges, attorneys-general and generally all lawyers to participate in the hearings of the TRC in which the role of the apartheid legal system will be thoroughly scrutinised and in so doing will enable the legal community to begin to formulate a constructive role in the new constitutional democracy," Saldanha said

ET 12/9/97

(252)



Nkosinathi Biko, son of slain black consciousness leader Steve Biko, listens to the testimony of the security policemen responsible for the torture and killing of his father on the second day of the truth commission's amnesty hearings in Port Elizabeth yesterday. Alongside Biko is Peter Jones, who was arrested and tortured with Biko's father in 1977

Picture Al

'Biko' officer admits he lied

Own Correspondent

FORMER head of the Port Elizabeth security branch Harold Snyman admitted yesterday that he had lied on a number of occasions under oath to protect the image of the National Party and the apartheid government.

Snyman, who was testifying on the assault and death of Steve Biko, said he first lied about Biko's death in the occurrence book at Baakens Street.

"What I wrote in the book was not a true account of what had happened."

After reporting Biko's condition to his commander and regional police chief Col Piet Goosen, who is dead, he instructed him (Snyman) to record that the incident occurred on September 7 1977. The incident occurred on September 6, Snyman said. He also lied about the doctor's visit to Biko

After Biko's death on September 12, Goosen had summoned every member of the interrogation team.

"He told us Mr Biko's death was an embarrassment to his branch and the government."

He said Goosen gave "specific" instructions that the facts about Biko's death were to remain under wraps in the interest of national security. Snyman said he had supported this theory. □ ECN reports that VIPs began arriving in East London yesterday ahead of today's unveiling of a 2,2m bust of Biko in front of the city hall

The East London municipality said yesterday international star Peter Gabriel and business tycoon Richard Branson, who sponsored the statue, had confirmed their attendance.

President Nelson Mandela would unveil the bust

DD 12/9/97 (252)

Cosatu optin

Reneé Grawitzky

CONGRESS of SA (Cosatu) general se Shilowa remained optimistic that a solution to bring jam on the Basic Conditions of Employment Bill could be found.

Addressing a media day, Shilowa said the bill would go to Parliament this year. He was optimistic a solution could be found through the parliamentary process and the alliance parties. He did not expect a meeting with the government.

Mandela offer

CAPE TOWN — President Nelson Mandela said yesterday he believed it would be in the interest of nation-build

Vocational training facilities checked

Jacob Dlamini

CAPE TOWN — The interim National Medical and Dental Council had inspected more than 80 facilities as part of its preparations for the eventual introduction of vocational training for newly qualified doctors, it was announced yesterday.

Cornelius Nel, chairman of the council's education and training committee, said 28 inspectors had been employed to carry out the inspections.

However, it was unlikely that vocational training would be introduced within the next two years, Nel said

Speaking during a parliamentary

hearing on the Medical, Dental and Supplementary Health Service Professions Amendment bill, Nel said it was hoped that the inspections would be completed at the end of the year.

The bill, which is one of three withdrawn in June amid fierce opposition, seeks to introduce vocational training and community service for newly qualified doctors. The council initially planned to introduce vocational training next year, but had to shelve plans due to a shortage of adequate facilities and trained staff to supervise the scheme. But health department plans to introduce a year's community service in January are expected to go ahead.

Justice department staff mostly black

Jacob Dlamini

CAPE TOWN — The justice department had developed a diversity programme as part of its efforts to have a representative staff body, but there was still room for more Indians and coloureds, Justice Minister Dullah Omar said yesterday.

Blacks now accounted for 57,8% of the department's staff and whites

43,2% Of the black group, however, only about 4% were coloured and almost 2% Indian, with the rest African.

The department had almost completed its rationalisation programme and had introduced a new management system. Regional offices had been set up and their heads appointed. These offices would be operational by November and would assume some national head office functions.

STOMPIE SEIPEI MURDER

New evidence for the TRC

Mandela allegedly linked to cover-up to protect his former wife

25/2
Mia/9/97
Former **Zambian** President Kenneth Kaunda is quoted as implicating President Nelson Mandela in the abduction from SA and the imprisonment in Zambia of a central figure in the 1991 trial and eventual conviction of Winnie Madikizela-Mandela for kidnapping.

The quotation — unequivocally denied by Mandela — was voiced during a recorded television interview with Kaunda and is contained in a new book on events leading to and surrounding the trial. Entitled *Katiza's Journey*, it is written by British journalist Fred Bridgland, who was *The Sunday Telegraph's* correspondent in SA at the time.

Katiza Cebekhulu — a co-accused with Madikizela-Mandela who disappeared shortly after the start of the trial in February 1991 and landed in a Zambian prison before he was befriended and rescued by former British MP Emma Nicholson — has applied for amnesty to the Truth & Reconciliation Commission and is ready to testify before it.

A central point in Bridgland's book, based in large measure on extensive interviews with Cebekhulu, is that the young man was taken across the border to prevent him from testifying against Madikizela-Mandela. According to Bridgland, his testimony implicates Madikizela-Mandela in the death of Stompie Seipei, one of her four kidnap victims.

"I saw her lift her hand and stab Stompie

twice," Cebekhulu, at that time a member of the Mandela United Football Club, is quoted as having told Bridgland.

Extracts from the interview with Kaunda quote him as saying that the request to give Cebekhulu a "safe haven" in Zambia came from Mandela through Oliver Tambo, then ANC president.

"(Tambo) said Nelson Mandela wants this man out of SA. We took that on trust. That's how the young man found himself in trouble. I trusted Oliver Tambo."

Bridgland comments "Oliver Tambo is dead. So it is left to Nelson Mandela to explain whether he engineered the abduction and imprisonment without trial of one of his own citizens or that Tambo was acting with authority."

In its response to Kaunda's reported statement, President Mandela's Office says

"For the record, the President wishes to make it clear that he did not arrange for Mr Cebekhulu to be taken out of South Africa or to be incarcerated in Zambia."

Bridgland focuses on an anomaly in the trial of Madikizela-Mandela: the failure by the prosecution to call Albertina Sisulu, wife of veteran ANC leader Walter Sisulu, as a witness. He believes that had they done so they would have been able to destroy Madikizela-Mandela's alibi that she was in Brandfort, Free State, during the assault on Seipei and the other kidnap victims.

A medical card filled in by Sisulu, who worked as a nurse for Abu-baker Asvat, a Soweto-based doctor who was himself later murdered, shows that Madikizela-Mandela visited Asvat's surgery with Cebekhulu on December 30 1988, the day when she was reportedly in Brandfort "200 miles away."

Bridgland contends that there were "two cover-ups," one by the then National Party government and one by the ANC. He contends that neither wanted to make a martyr of Madikizela-Mandela — then, as now, a powerful figure in the ANC — and thereby jeopardise the prospect of peaceful settlement.

Madikizela-Mandela dismissed Cebekhulu's allegations — which include finger-pointing over the murder of Asvat — as depraved. She implies that he himself may have had a hand in the murder of Seipei — for whose death former Mandela United coach Jerry Richardson was convicted in 1990. She implies "He must say who helped him leave the country and why."

Faced with a subpoena to appear before the TRC, Madikizela-Mandela has reaffirmed her determination to testify before the TRC at an open hearing. "I beg that these issues be tested by the vigilance of the public."

Patrick Laurence



Madikizela-Mandela new links to the death of Stompie Seipei

TALK OF THE TOWN

For the man-about-town The remarkable new cellphone/wallet/credit card/organiser pouch. Lightweight and durable. Crafted from the finest hide, like the rest of the immaculate full-leather Infiniti range - the Carry-On Roll-Aboard Suitcase, Organiser Computer Bag, Travel Bag and Toiletry Kit. Cellini Infiniti - now you're talking.

5 YEAR WARRANTY

CELLINI Infiniti

The Luxury of Indulgence Available at all leading luggage and department stores



inter BRAND

NATIONAL ATTORNEY-GENERAL

(252)

Top prosecutor makes AGs hot

Details emerge of controversial new super Attorney-General post

PM 12/9/97
In a radical shake-up of the prosecuting system, attorneys-general (AGs) will soon become subservient to a politically appointed national AG with the power to alter their decisions

Details of the controversial National Prosecuting Authority Bill emerged for the first time this week following Cabinet's approval of legislation which would change the structure of SA's legal system in line with the new Constitution

The legal fraternity says the Bill threatens the independence of AGs by making it possible for the Executive to influence the prosecution process through a political appointee armed with sweeping powers

The Bill provides for a single national prosecuting authority headed by a national AG — the national director of prosecutions — appointed by the President, not by an independent selection process

This means the ruling party can use its power of appointment to ensure political control over the prosecutions office. This has given rise to concern that the national director could be used to prevent a politically embarrassing prosecution such as that, for example, of former ANC Western Cape leader Allan Boesak

Nearly all existing Attorneys-General are political appointees who were granted independence only in 1992. Before that, their

office was perceived to be subject to political manipulation. Currently there is little or no recourse for reviewing AGs' decisions

University of the Western Cape law professor Jeremy Sarkin says the "the Magnus Malan and Dirk Coetzee trials, and the lack of prosecutions in KwaZulu-Natal around political violence, are the areas of concern government wishes to address by the appointment of a national director"

He says many endorse the need for a national director to balance the requirements of independence and accountability and to ensure that a uniform prosecution policy is implemented countrywide

But instead of minimising the potential for politics to contaminate future legal decisions, the Bill replaces one set of political problems with another

Though the Constitution stipulates that the prosecuting authority must exercise its functions without fear, favour or prejudice, it also provides the national director with power to intervene in the prosecution process when policy directives are not complied with and to review an AG's decision on whether to prosecute

An NP source says this issue was sacrificed during the negotiations to secure a final agreement on the Constitution. "Now we just have to live with it"

Following an outcry by several AGs, the Bill has been softened to ensure that the national director has at

least the same qualifications as an AG. It also avoids explicit reference to the sweeping powers conferred on the incumbent by the Constitution

But this is seen by some as an attempt to avoid debate on the crux of the matter: the legal definition of the powers of intervention and review

SA Institute of Race Relations spokesman Martin Schonteich says that by leaving it as it stands in the Constitution "it gives the national director broad powers over AGs and threatens their independence"

It is for this reason, too, that the Association of Law Societies is against the idea of a national director in principle

Schonteich's main objection is that the Bill provides no security of tenure for Attorneys-General who may feel pressured to toe the party line in order to hold on to their jobs

At present AGs are appointed until the age of 65. Now they may not serve for more than seven years from the time the Bill becomes law. This term may be reduced at the discretion of the President

The same applies to the national director, who is entitled to serve a maximum of seven years unless the term is extended by the President, also making the incumbent beholden to the State for his or her continued livelihood

Public hearings on the Bill will be held by the justice committee in the current session

Claire Bisseker



Boesak would a super AG help his case?

BEFORE YOU SEND YOUR MONEY OVERSEAS,
THERE'S SOMETHING YOU SHOULD CONSIDER.

THE RETURNS.



NEDBANK

GLOBAL INVESTMENTS

CALL 0800 118 995

A division of Nedcor Bank Limited (Reg No 51/00009/00)

OGILVY & MATHER RIGHTFORD SEARLE TRIPP & MAKIN P72544

TRC gets down to business

MTG 12-18/9/97
(252)

The truth commission is to question business about its apartheid role, writes Charlene Smith

Was business an innocent bystander or active participant in apartheid? What was its role in South Africa's defence industry, security apparatus, sanctions campaign and homeland system and how did this impact on political conflict both directly and indirectly?

These are just two of the questions the Truth and Reconciliation Commission has posed to more than 50 business representatives, ranging from the Land Bank to the Chamber of Mines, Afrikanse Handels Instituut, Business South Africa, the SA Chamber of Commerce and the Steel and Engineering Industries Federation of SA among others. Union comment has also been sought.

They have been asked for their submissions by October 10. The commission will then request some parties to testify on certain areas over three days in November. Dr Fazel Randera, who is co-ordi-

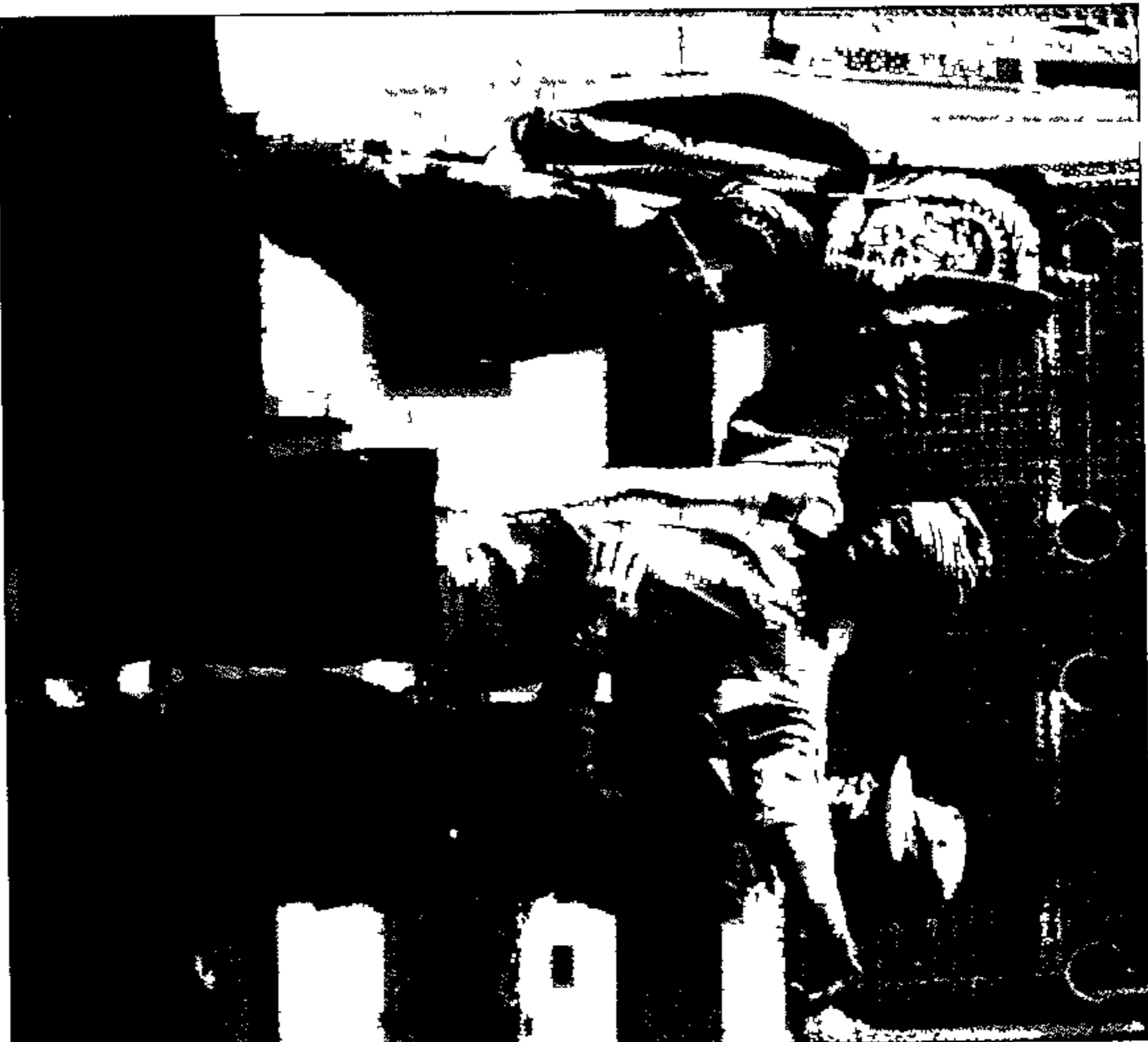
nating the hearing, said this week that although the commission as a whole had received 12 500 submissions from victims and 7 000 from perpetrators of human rights abuses, "the rest of the SA community has seen themselves as divorced from this process." The commission has asked several specialists for their input, including Professor Nic Wreahahn, who wrote the Wreahahn report of the late 1970s that led to the decriminalisation of black trade unions, as well as academics and labour experts Professor Sammie Terre'Blanche and Professor Charles Simpkins.

The Black Business Council this week tore strips off white business grants of the past for their role in apartheid. Don Mkhwanazi said that big business had been part of "atrocities blamed on politics, when capital and business were part of those atrocities in the economy". He believed it was "traitorous" that billions of rands had left the country in capital flight.

Dr Randera said the response of some members of the corporate world had been that "the business of business is business and they were just following laws and regulations. But how does business explain some of its relationships with the state? There was no law that said black workers had to be paid abysmal wages."

Most black businessmen, however, are cautious and suspicious — one executive declined to comment, "because we are a comparatively small company and most white business people are not happy with the commission asking them to testify."

But other business people have thrown themselves wholeheartedly into the effort. One of the most keenly awaited submissions is from Bobby Godsell, who heads the gold and uranium division at Anglo American. With Cyril Ramaphosa, now of Nail and former head of the National Union of Mineworkers, he pioneered the labour/business co-operative negotiations that could rightly be said to have laid a solid foundation for the multi-party talks. It is believed that Godsell has ap-



Seeking the truth: Business is called to answer for its role in the apartheid era

proached Harry Oppenheimer personally to ask if he will head any Anglo delegation. Godsell was abroad and could not be contacted.

There is a fear that the commission hearing will be a way of "putting business on the hook, and getting us to pay compensation," said one businessman.

Adrian du Plessis, a negotiator at the National Economic Development

ent — but despite that little progress has been made.

Certainly the unions are angriest about the role of business in, as they termed it, the military-industrial complex that the apartheid government became. Migrant labour, which began almost a century before apartheid, reached its zenith during this time.

South Africa's rate of crime

(202)
From PAGE 38

"If I have one reservation about the way the commission is setting about this, it is that in three days of hearings they will want a 35-year period with a 300-year history. If we think about the European history of this century, people are still trying to work out why Germans behaved the way they did, and those are much more sophisticated societies.

"My nervousness is that this could be a superficial exercise."

Brian Allen of Andrew Levy & Associates labour consultancy also questions the merits of the hearings. "Labour and business essentially interact in a commercial relationship, not a political one. The interests of employees and employers will always diverge. It is the resolution of conflict and the reconciliation of divergent interests that are important in society.

"Certainly some in business took advantage of the homeland system. But we have gone so far down the line since 1960 that I question whether these hearings are necessary."

Eddie Webster, director of the sociology of work unit at the University of the Witwatersrand and long a foe of injustice as it applied to capitalism and labour, has no such misgivings. He believes that a recollection of the strong role that business took in advancing change from the 1980s could in fact "heal some wounds in the workplace" and foster a more sympathetic alliance between business and labour.

"A minority of businesses stuck their necks out in the 1970s, but in the 1980s business became a decisive force. If they had not we would have had a socialist government now and a transition that would have been anything but peaceful."

David Mojapelo, CEO of Fabcos and president of the Black Business Council, said it was important to see how abuses could end. "What role, as an example, can we as black business play in ending violence in KwaZulu-Natal? We need to map out a role for business."

Business SA, notes that the common view is that "business was a beneficiary of apartheid and labour was a victim. Certainly SA experienced very high growth in the 1960s and 1970s, but by the 1970s South Africa was a fortress economy that led to inward industrialisation that was not self-sustaining.

"The wheel of growth," Du Plessis avers, "demands democracy. Capitalism can survive under illegitimate repression, but if we had not had repression our economy would be more broad based, operating at a higher level and working more profitably. An argument can be made that capitalism was a victim of apartheid."

Dasí Moodley, a former trade unionist with the Food and Allied Workers' Union, who is now an economist and consultant, says "Job reservation and job guarantees ensured South Africa could never meet its economic growth potential. The lack of skilled labour that ensued, and apartheid education policies, are still retarding South Africa's attempts to climb emerging markets indices."

The gurus of separate development deliberately steered the mass of the workforce toward labour-intensive industry and failed to envision capital-intensive, high-tech futures and the need for an educated skilled workforce.

While job reservation and low wages led to temporary highs in the economy with enormous profits for companies, they also fuelled the creation of militant unions, beginning in the late 1970s and accelerating in the early 1980s when workers pushed for high wages to escape from conditions of growing poverty.

It has only been in the last two decades or so that training imperatives have become glaringly appar-

world, also arouses anger about black blood building gold wealth primarily for the benefit of whites. And it was the mining houses that were initially most against any union activity, they banned meetings on premises, refused for a long time to allow union membership and generally did all in their power to resist what would become the most potent agent for social change in South Africa.

Fatalities are still high. According to the Chamber of Mines there were 529 deaths in mines in 1987, or a rate of 1,16 per 1 000 employees out of a total of 456 000 employees. Last year it slipped to just under one per 1 000 workers at 0,99, or 304 deaths from a workforce of 306 000.

Dr Nick Segal, president of the Chamber of Mines and vice-chair of Business SA, said the chamber would respond with "due gravitas. It is a complex story, there are no good guys and bad guys, but we will not flinch from problem areas."

Pointing out that migrant labour had been

in existence for almost a century by 1960 (the commission has asked for submissions dealing with the years between 1960 to 1994) he said that efforts around wages and hostel improvements began in the 1970s.

"Mining is an unsafe activity, the deeper one goes the less safe it is. I don't know that as an industry we were involved in gross violations of human rights. And we will not be afraid to say that with hindsight we would have acted differently, but there are many things the industry has done which were positive.

"By and large we acted within the law and chose to do so, the same way that we act within the law now and often disagree with the present government.

'Capitalism can survive under illegitimate repression ... an argument can be made that capitalism was a victim of apartheid'

To PAGE 39

Winniegate trail leads to cover-up

Mail & Guardian reporters

Jerry Richardson, Winnie Madikizela-Mandela's former right-hand man, was paid R10 000 by police after a shoot-out in Soweto in 1988 in which two African National Congress guerrillas and a police officer were killed, the *Mail & Guardian* established this week.

This disclosure reinforces longstanding rumours that Richardson was a police agent, which in turn fuels suspicions that there has been a massive cover-up involving the state and the ANC of the "Winnie scandal". The controversy surrounding the former wife of the president escalated further this week with the publication of a book by former British foreign correspondent, Fred Bridgland, purporting to make further disclosures relating to the murder of Stompie Sepele, Dr Abu Baker Asvat and a range of other alleged criminal activities by Madikizela-Mandela and her associates.

The book, launched in South Africa by a British peer, Dame Emma Nicholson, is based largely on the testimony of the "missing" witness in Winnie's 1991 kidnapping trial, Katza Cebekhulu.



MT-G 12-18/9/97 (252)



A tale of two madams: Cebekhulu went from the household of Winnie Madikizela-Mandela (left) to Emma Nicholson's (above).
PHOTOS: RODGER BOSCH AND SIDDIQUE DAVIDS

Lady and the tramp

David Beresford

The latest allegations against Winnie Madikizela-Mandela have brought a curious and contradictory figure to prominence in South Africa, the British life peer, Dame Emma Nicholson.

Nicholson told the assembled reporters, loftily: "Experience has taught me to believe the victim," forgetting that the "victim" she was talking about was a petty thief who had joined in the battering of the murdered youth, Stompie Sepele. The book was written by a former

never charged, but was paid a R10 000 reward by the police.

Evidence that Richardson was in police pay suggests the security forces had comprehensive knowledge of Winnie's activities in smuggling and arming ANC guerrillas,

asked Kaunda, through Oliver Tambo, to take Cebekhulu "out of circulation."

Mandela said this week he wanted to make it clear he did not arrange for Cebekhulu to be taken out of South Africa, or to be incar-

ported, it raises a significant new charge by alleging that President Nelson Mandela had a part in Cebekhulu's detention in a Zambian jail. The President has emphatically denied this, and other than a vague assertion by Kenneth Kaunda that he believed the instruction to have originated from Mandela, the book does not sustain the charge.

In the tradition of national scandals — of which Watergate is the most famous example — the significance of "Winnegate" is now beginning to turn not on the original crimes but the cover-up.

In the excited pursuit of Winnie's alleged wrongdoing by the media there is a danger that the reliability of witnesses is being overlooked. It is rarely noted, for example, that Katiza Cebekhulu — now her man accuser — was a petty thief and that he took part, by his own confession, in the fatal assault on Stompie.

Nevertheless, his evidence and that of others involved in Winnegate raise worrying questions that point to a cover-up going to high levels of the government and possibly involving collusion between the ANC and the security forces in the apartheid era.

One such question is why Winnie was a seemingly "sacred cow" where some of the police were concerned at a time when the ANC and the security forces were in a state of war against each other. A striking example is a shoot-out on November 9 1988 when two ANC guerrillas and a policeman were killed in a firefight that destroyed Richardson's Soweto house.

Some other questions pointing to a possible cover-up include:

- What was the role of Captain Fred Dempsey from the Soweto murder and robbery squad investigating the activities of the Mandela United Football Club? One of the most sensational allegations made by the Bridgland book is that Katiza Cebekhulu was handed over to Winnie by Dempsey on the eve of her 1991 trial. Cebekhulu claims that after three months on the run, he was arrested by police in Soweto on January 21, 1991, and handed over to Dempsey. He assumed he was going to be detained until Winnie's trial opened on February 4. But instead "they drove me to Winnie's house. I thought they were going to arrest her too, but they spoke to her in Afrikaans and then handed me over to her. I couldn't believe it. I refused to get out of the car. But they grabbed me and pulled me out for the first time. I realised Winnie is working with the police."

In an interview with the M&G this week, Dempsey flatly denied the allegations.

- What role if any, did Mandela play in the cover-up? Cebekhulu claims that he actually met Mandela in September 1992 when he was on a visit to Zambia. "There was Mandela and two other officials — I don't know who they were — in a big room. It was a long meeting. I had nothing. I told everything. He [Mandela] promised to work on my case and release me soon so that I could come home."

The Bridgland book also claims that Zambia's President Frederick Chiluba had discovered "state papers" which "purported to be the full story of Katiza's abduction from South Africa." The official papers suggested a surprising possibility: the mastermind behind the kidnap of Cebekhulu was claimed to be Nelson Mandela. It is alleged that he had

tried having met Cebekhulu when he visited Zambia in 1992.

- Why was the chief investigator into the Asvat murder, Colonel Henk Heslinga, so convinced from the early stage of the inquiry that the motive was purely one of robbery? Asvat's brother, Dr Ebrahim Asvat, has pointed out that the "robbers" took only R135 and left R300 behind. "My brother was not the sort of person to put up a fight. He would just have given them the money."

In addition, one of the men found guilty of murdering Asvat, Nicholas Dlamini, made a statement after his arrest saying that they were contracted to carry out the killing by Winnie. And yet Heslinga has gone on record as saying "I am convinced it was an ordinary robbery — I am 100% convinced." It appears Winnie has never been questioned over the

Asvat murder.

The prosecutor in the Asvat case, Jannie van der Merwe, who is now at the Cape Bar, has told the M&G the statement by Dlamini contradicted one by the co-accused Cyril Mbatsha and it was suggested to him Dlamini had been persuaded by junior policemen to make the statement about Winnie's involvement.

"I requested Heslinga to approach the accused after they were convicted, to enquire from them whether there was any information they wished to add about the possible involvement of Madikizela-Mandela and I was informed they turned the offer down."

- How was Winnie able to get away with her Brandfort alibi at her 1991 trial, an alibi that is now widely believed to have been fabricated? As one newspaper columnist said at the time "If the feeble efforts by the state to destroy Madikizela-Mandela's alibi was any indication, they would have been happy to have avoided a prosecution."

much controversy and some merit in the United Kingdom, since crossing the floor of the House of Commons to join the Liberal Democrats in December 1995. Much of the merit was over an indignant claim she made — in puffing a book she wrote about the horrors of life in the Conservative Party — that John Major had once made a pass at her. "Major flirted with me on sofa," trumpeted the headline in the mass-circulation *Daily Mirror*. "MP Emma tells of chat-up in office." In the accompanying story Nicholson recounted how the prime minister had invited her to his office in the Commons where, instead of discussing politics with her, he had asked her the name of her perfume. "I was incredibly angry," she recalled.

The apparent naivety of the former Tory MP was on display again in Cape Town's Bay Hotel this week when Nicholson launched *Katiza's Journey*, the account of the travels and travels of the "missing" witness in the Winnie scandal, Katiza Cebekhulu.

Asked whether Cebekhulu could be considered a reliable witness

Ironically, at the time Madikizela-Mandela went on trial, a supreme court judge had already found — in Jerry Richardson's trial for the murder of Stompie — that Winnie was present at the fatal assault on the teenager. There was additional evidence in medical records at Asvat's surgery which showed she was in Soweto on the day she claimed to be in Brandfort.

- Why has the former Winnie Mandela Crisis Committee never disclosed what they knew about the Asvat murder? The committee was made up of people who now hold key positions in government and society

'She thinks she is above the community'

MTG 12-18/9/97

The committee formed in 1989 to deal with the growing Winnie Madikizela-Mandela scandal wrote a desperate letter to Oliver Tambo. Here, for the first time, is that letter in full

In January 1989, when word began circulating in Soweto of the kidnapping of four boys — Gabriel Mekgwe, Kenneth Kgase, Thabiso Mono and Stompie Moeketsi Seipei — by Winnie Madikizela-Mandela's gang, the Mandela Football Club, community leaders got together and formed a "crisis committee" to try and deal with the scandal.

The committee consisted of key figures in the liberation struggle, the Reverend Frank Chikane, now personal adviser to Deputy President Thabo Mbeki; Cyril Ramaphosa, subsequently African National Congress secretary general; Sydney Mufamadi, now Minister of Police; Aubrey Moekoena, former head of the Release Nelson Mandela Committee;

Stompie when the latter was taken away for "further interrogations" by the Football Club fellows. Apparently Stompie was by then already badly assaulted. So much that according to Kenny, he could not even walk. Kenny managed to escape and he is presently hospitalised as a result of the heavy torture he received in the hands of the Football Club.

We have produced Gabriel Mekgwe, Thabiso Mono and Katiza Cebekhulu to the committee. When we interviewed them, both Gabriel Mekgwe and Thabiso Mono tried to tell us that they left the mission house voluntarily and asked Winnie for protection against Rev Paul Verlyn's sodomy. During the course of the interview, we noticed that both

— That all progressive organisations should no longer give her a platform

— That the Football Club be dismantled forthwith — lest the community dismantle the club for her

— That from now henceforth, she must desist from creating an impression that she speaks on behalf of the people

— That neither Krish Naidoo nor any other progressive lawyer in the country, should act for her

(Apparently, Krish's partners have taken a decision to sever ties with her. Krish seems to be reluctant to do so. We advised him not to put his practice in jeopardy by going against the decision of his partners. Besides, our understanding was that he was long ago asked not to act for the family)

We were later informed that those resolutions were later ratified by the Cosatu Johannesburg Shopsteward Council

When Winnie was informed about the decisions of the meeting, her immediate response was to demand a list of all the people who were at the meeting. She seems to think that she is above the community! She shows utter contempt for both the Crisis Committee and the community. She has started accusing the Crisis Committee of all sorts of petty things, like

— That the Crisis Committee is conniving with the community Reason for the accusation when the community organisations invited us to the meeting we obliged

— The Crisis Committee communicates with Madiba and OR [Tambo] behind her back

— The Crisis Committee is assisting the police by inviting 131

and the Reverend Beyers Naude, former general secretary of the South African Council of Churches.

In mid-January — before the murder of Dr Abu Baker Asvat, allegedly killed on Madikizela-Mandela's orders — the committee was frightened by the implications of Madikizela-Mandela's involvement in the scandal, and sent the following report to the president of the then banned ANC, Oliver Tambo, in Lusaka. We publish in full for the first time in South Africa.

She Crisis Committee was approached by Comrades from Thunahole as well as

by the Methodist church who alleged that Winnie's boys have kidnaped 5 kids who were staying at the Methodist Church Mission house in Orlando West with Rev Paul Verryn

We approached Winnie who promised to give us access to the kids so that we could see for ourselves. She immediately asserted that they came to her house voluntarily because they were tired of being sodomised by the priest who was giving them sanctuary. She promised that the kids would confirm that to us when we see them (The names of the kidnaped kids are 1 Gabriel Mekgwwe/Ikageng Potchefstroom, 2 Thabiso Mono/Ikageng Potchefstroom, 3 Katiza Cebekhulu/Hammersdale, 4 Moekeksi — better known as Stompie to his comrades/Thunahole, Parrys and 5 Kenny/Pre-toria)

When we approached Winnie we did not divulge to her that we knew the number of kids involved. The reason for this was that Stompie, the 14-year-old kid from Thunahole, was feared dead by our informants. Their fears were based on Kenny's testimony to the effect that he last saw

scars which were quite fresh. They denied having been assaulted. They maintained that the injuries on their bodies were sustained when they fell from trees at the Mission House. It is an improbable coincidence that of the 16 or so kids who lived at the mission house, the Reverend could sodomise only those who had the propensity to climb trees.

When we interviewed Katiza Cebekhulu, he came across as a person who understood no language other than Zulu, somewhere along the way, we gained an impression that he is a maverick. This prompted us to concentrate on additional issues. We broke him. Consequently, we established the following from him:

— That both Gabriel and Thabiso were heavily assaulted, Stompie and Kenny were also assaulted
— That he [Katiza] was instructed to contribute in assaulting the four. He himself was not assaulted
— He believed that Kenny had escaped but he suspected that Stompie was dead

— He [Katiza] before running away from Hammersdale, was working with the CR Swart security branch. He maintains that he did this because of poverty. He was, according to him, rejected by both the UDF [United Democratic Front] and Inkatha. He reckons both organisations were after him and he therefore decided to leave the area (Hammersdale)

Winnie later told us that she has sent both Katiza and Xoliswa [Falati, later Winnie's co-accused in the eventual kidnapping trial] to Lusaka. This is what prompted us to take this step of communicating with you — hopefully whilst the two are in Lusaka. We believed that Xoliswa (as is reflected in the memorandum alluded to above), can help us understand her role in the whole rignmarole. This



Child martyr: Stompie Moekeksi Seipel (top), slain by the Mandela Football Club, and crisis committee members Cyril Ramaphosa (below, left) and Frank Chikane (right)



is necessary because she seems to be very close to both Winnie and the whole Football Club. She was heavily implicated in the information we received during our investigations.

Interestingly, Zinzi [Winnie's daughter] later told us that Kenny had escaped. She made no mention of Stompie. This reinforced our suspicion about Stompie. We also kept mum about Stompie at that stage.

All organisational formations that are Soweto-based held a meeting to discuss the issue. Present at the meeting were Methodist priests including Peter Storey, both SM [Mufamadi] and our sister from the Crisis Committee attended the meeting. Aub Mok [Moekeksi] was unable to attend because he is house-arrested (6pm-6am). Gabriel Mekgwwe and Mhabiso Mono came to the meeting. They had since been released — we understand following the instructions from yourself and Comrade Madiba [Nelson

Mandela, then still in jail]

Both Gabriel and Thabiso said at the meeting that they were heavily assaulted by the Football Club. They allege that Winnie herself also took part in assaulting them. They were not taken to a doctor but were treated by members of the Football Club. After recuperating, they were integrated into Winnie's staff. They were made to clean the yard and were drafted into teams that take turns to guard the house at night.

According to both Gabriel and Thabiso, they were told what to say to the Crisis Committee. At that stage they obliged because they were still captive. They withdrew almost everything they had told us including the allegation that Rev Paul Verryn sodomised them.

The meeting took the following resolutions

— That Winnie be approached and be instructed to produce Stompie

— The SACC and the Christian Institute [transparent references to Frank and Beyers] are wolves in sheepskins

This she said to our faces. She does not seem to know that the Christian Institute was banned years ago.

When we insisted on demanding Stompie, she said that we must leave this to the police.

We are raising this issues because we are imploring you to act on the following.

— Xoliswa and Katiza

— Help us map out the way forward in relation to the following fundamentals pertaining to Winnie's political life

a) Is there any point in continuing to maintain the Crisis Committee? We promise that if you feel so, we will continue to make our humble contribution. However, your input will be necessary — ie in helping redefine the new terms of operation designed to meet this new ghastly situation that is developing before our very eyes

b) Is there a possibility (at the moment we don't see any) of reintegrating Winnie into the community? Some ideas are required regarding to this

She told us and she repeated] this to a Church delegation made [up] of Rev Otto Mbangula (Methodist), Fr Smanangaliso Mkhatswa and Bishop Buthelezi, that she was contemplating holding a press conference in which she will publicly announce that she is resigning from the ANC. We do not know what this means! We asked her to hold back pending a meeting between her and a full complement of the Crisis Committee which can only take place in mid-February, given that both FC [Chikane] and BN [Ncube] are still abroad.



UNIVERSITY OF CAPE TOWN
SALDRU LIBRARY

Omar plugs justice brain drain

Mungo Soggot

Justice Minister Dullah Omar has blocked attempts by hundreds of his long-serving officials to take voluntary retrenchment. His ministry confirmed this week that 742 of its 13 400 workforce had applied for retrenchment packages, but only 43 had succeeded.

Omar, who has been accused of gunning for white justice employees, told the *Mail & Guardian* he had spiked applications that did not meet voluntary retrenchment rules. He said the figures confirmed he was not bent on a purge of old-guard

civil servants. He has had to shoulder such perceptions since a high-profile court case brought against him last year by disgruntled white employees in the Department of Justice, who claimed they were victims of affirmative action quotas.

The Pretoria High Court sided with the employees and froze an appointment process in the justice department which saw white, male officials overtaken by black, less experienced women officials. Omar said allegations that he had targeted old-guard employees were "absolute rubbish. If anyone asks to leave, white or black, I intervene from the ministry to find out why."

The make-up of the justice department is testimony to Omar's efforts to accommodate the civil service he inherited. The department is headed by Jasper Noeth, who was director general under the former minister of justice, Kobie Coetzee.

Noeth said this week most of the applicants for the retrenchment packages were attracted by the lucrative payouts and he did not believe the rush signalled widespread dissatisfaction. Western Cape Attorney General Frank Kahn warned that unless prosecutors' salaries were improved "we are going to bleed. It's crisis management at the moment."

Two weeks ago Kahn's office was forced to withdraw charges temporarily against alleged Cape Town drug baron Colin Stanfield after the prosecutor and investigating officer in the case quit. Kahn has been forced to rehire the prosecutor at private-sector rates.

"The bottom line is you are going to get more Stanfield cases unless you increase salaries," he said. In the past eight months, five of his staff have left, three of whom were seniors. "The present salaries are not competitive — you can't keep people on love, fresh air and promises. They become fed up, demotivated and they resign in the middle of a case knowing they will be retained."

Kahn said even the existing justice staff was insufficient, with some regional courts facing backlogs of thousands. Several state attorneys who have resigned have continued to work for the government, at considerable expense, on cases they were handling before they went to the private sector.

Kahn has been mentioned as a possible candidate for the post of national director of prosecutions. The Bill creating the post was approved by Cabinet last week. Omar said his department had not considered candidates yet and was concentrating on getting the legislation passed.

MTG 12-18/9/97

(252)

Beqqing for the mercy they never gave BIKO

MTG 12-18 19 1997

Steve Biko's tormentors protest their innocence, but if that is true they need not have applied for amnesty, argues Lizeka Mda

Steve Biko's torturers came to the Truth and Reconciliation Commission's amnesty hearing in Port Elizabeth to persuade the gathering they had come to finally tell the "true facts" about the circumstances in which he died

But on the very first day of the hearing, Biko family lawyer, George Bizos SC, exposed in his cross-examination a massive contradiction in their latest version of how the Black Consciousness leader sustained a head injury in September 1977. In his application, retired secu-

tion to the truth commission, he told how Biko had bumped his head against a wall during a scuffle. Bizos suggested his head had been deliberately rammed against the wall. Siebert was a study in concentration when Snyman recounted his anger at Biko's stubborn insistence on sitting down while being questioned about a visit to Cape Town despite his banning order, and the distribution of subversive pamphlets in Port Elizabeth.

Beneke appeared to be shrinking in his seat, while Louw Erasmus, his lawyer, just got progressively red-



The picture of injured innocence: Siebert (left) and Nieuwoudt testify before the truth commission about their role in Steve Biko's death. PHOTOGRAPHS: RUTH MOTAU

Twenty years ago Snyman testified that on September 6 1977 Biko's interrogation in the Sanlam Building began at 10 30am and lasted until 6pm. Snyman said Biko had displayed an aggressive attitude towards the police and to make him feel at ease, his handcuffs were removed and he was offered a chair to sit on.

At first Biko evaded questions but as the day went on — during which he had been offered meat pies and milk, which he refused — he had become more co-operative. He told the police he had gone to Cape Town to escape his marital problems, but later said he had gone to heal a breach in the Black People's Convention. Sidney Kentridge, counsel for the Biko family, had wanted to know what persuasive methods had been used during the seven-and-a-half-

happened on September 6, right at the beginning of the interrogation which started at 9am. By 9 30am Biko had been injured.

Snyman said Biko became confrontational and aggressive and kept sitting down without permission while Siebert questioned him about the distribution of pamphlets and his association with Dr Neville Alexander of the Non-European Unity Movement. Siebert shouted at Biko to get up, and when his order was ignored, he pulled Biko off the chair by the scruff of his neck, at which point Biko lost his temper. He pushed the chair hard towards Siebert and aimed a punch at the policeman, but missed. Siebert shoved Biko away as Beneke shouldered the activist in the stomach. "We knew of a previous occasion

would have made would not coincide with the medical certificate. From this new version it is not very clear why Snyman is applying for amnesty at all, because if he did not participate in the assault, and had virtually no part in Biko's subsequent inhumane treatment, his appeal at the hearing is baffling.

"It is my conviction in the depths of my heart that our actions were wrong," he said. "I can say in honesty that I feel remorseful over these events. I want to ask that I be forgiven for my part."

That's because Snyman's telling even more lies, says Biko's widow, Ntsiki. And the audience at the hearing clearly agreed with her as their running commentary indicated. "You are lying!" was one of the more frequent ones.

Begging for the mercy they never gave BIKO

MTG 12-18/97
(252)

Steve Biko's tormentors protest their innocence, but if that is true they need not have applied for amnesty, argues Lizeka Mda

Steve Biko's torturers came to the Truth and Reconciliation Commission's amnesty hearing in Port Elizabeth to persuade the gathering they had come to finally tell the "true facts" about the circumstances in which he died

But on the very first day of the hearing, Biko family lawyer, George Bizos SC, exposed in his cross-examination a massive contradiction in their latest version of how the Black Consciousness leader sustained a head injury in September 1977. In his application, retired secu-

tion to the truth commission, he told how Biko had bumped his head against a wall during a scuffle. Bizos suggested his head had been deliberately rammed against the wall.

Siebert was a study in concentration when Snyman recounted his anger at Biko's stubborn insistence on sitting down while being questioned about a visit to Cape Town despite his banning order, and the distribution of subversive pamphlets in Port Elizabeth.

Beneke appeared to be shrinking in his seat, while Louw Erasmus, his lawyer, just got progressively red-



The picture of injured innocence: Siebert (left) and Nieuwoudt testify before the truth commission about their role in Steve Biko's death. PHOTOGRAPHS: RUTH MOTAU

Twenty years ago Snyman testified that on September 6 1977 Biko's interrogation in the Sanlam Building began at 10 30am and lasted until 6pm. Snyman said Biko had displayed an aggressive attitude towards the police and to make him feel at ease, his handcuffs were removed and he was offered a chair to sit on.

At first Biko evaded questions but as the day went on — during which he had been offered meat pies and milk, which he refused — he had become more co-operative. He told the police he had gone to Cape Town to escape his marital problems, but later said he had gone to heal a breach in the Black People's Convention. Sidney Kentridge, counsel for the Biko family, had wanted to know what persuasive methods had been used during the seven-and-a-half-

happened on September 6, right at the beginning of the interrogation which started at 9am. By 9 30am Biko had been injured.

Snyman said Biko became confrontational and aggressive and kept sitting down without permission while Siebert questioned him about the distribution of pamphlets and his association with Dr Neville Alexander of the Non-European Unity Movement. Siebert shouted at Biko to get up, and when his order was ignored, he pulled Biko off the chair by the scruff of his neck, at which point Biko lost his temper. He pushed the chair hard towards Siebert and aimed a punch at the policeman, but missed. Siebert shoved Biko away as Beneke shouldered-charged the activist in the stomach. "We knew of a previous occasion

would have made would not coincide with the medical certificate. From this new version it is not very clear why Snyman is applying for amnesty at all, because if he did not participate in the assault, and had virtually no part in Biko's subsequent inhumane treatment, his appeal at the hearing is baffling.

"It is my conviction in the depths of my heart that our actions were wrong," he said. "I can say in honesty that I feel remorseful over these events. I want to ask that I be forgiven for my part."

That's because Snyman's telling even more lies, says Biko's widow, Ntsiki. And the audience at the hearing clearly agreed with her as their running commentary indicated. "You are lying!" was one of the more frequent ones.

blamed the late Colonel Piet Goosen, his commanding officer in 1977, for the instructions to keep Biko naked, and to deprive him of sleep and food. After the activist was fatally injured, it was the same Goosen who instructed the investigation team to be about the circumstances leading to Biko's death in statements to Major General Kleinhaus who investigated Biko's injuries, and to the inquest into his death in November 1977.

Throughout Snyman's testimony, his co-applicants — Gideon Nieuwoudt, Daantjie Siebert, Johan Beneke and Rubin Marx, who were members of the interrogation team Snyman led — did not give any indication that they agreed or disagreed with their former colleague's recall of events.

Snyman said the applicants had manufactured statements "in which the true facts of this case were adapted and concealed". But in his render-

scowled at the jeering crowd. Nieuwoudt, on the other hand, alternated between staring into space while supporting his chin with his left fist, and looking around the hall as if trying to recognise people — his victims perhaps? He drank a lot of water and kept pouring water for Snyman. "Why is he so thirsty? Did he pour even one glass for Biko?" the question came from an angry member of the audience. The only indication that Nieuwoudt was paying attention to the proceedings was when Bizos read from Siebert's application that during the alleged scuffle, Nieuwoudt was hitting Biko with a hosepipe, and with Siebert and Marx grabbed Biko and ran with him to the corner where they rammed him against the wall.

Snyman responded that he did not see that. At which point Nieuwoudt whispered to Snyman with his hand covering his mouth

a co-operative witness. To which Snyman said Biko had been confronted with certain evidence in the security police hands.

The following day, Snyman said, shortly after his leg-irons and handcuffs were removed, when offered a chair, Biko had got a wild expression in his eyes, jumped off the chair and threw the chair at Snyman.

Snyman got out of the way, then Biko charged at Beneke, pinning him against the steel cabinet. Snyman and Siebert went to Beneke's aid but it took the added muscle of Marx and Nieuwoudt to overpower him.

He was chained to a metal grill but continued to struggle against his handcuffs and leg irons. Snyman reported the matter to Goosen, who went to speak to Biko whom he found to be incoherent and speaking in a slurred manner.

Goosen called Dr Ivor Lang to give Biko a medical check-up, after which Snyman and his team tried to communicate with an uncommunicative Biko. Snyman then gave orders for Biko to be allowed to rest on his mat while still handcuffed and chained to the grill.

On the following day, September 8, Snyman said he had found Biko still lying on the floor, awake, but would not respond to questions. Snyman knew that Dr Lang had found nothing physically wrong with Biko. He was aware too that Biko was taken to the prison hospital on September 8. Snyman said he was also present when Biko was sent on the journey to Pretoria on September 11 in the company of Siebert and other police officers.

Magistrate Marthinus Prins, presiding at the inquest, ruled that Biko's head injuries emanated from the reported scuffle and his death could not be blamed on criminal offence by anyone. All lies, insisted Snyman this week as he presented what he said were the true facts. First of all, the scuffle with Biko

member of the police and knocked his teeth out," said Snyman. "He was a big and strong man."

Beneke and Siebert could not subdue Biko until Marx and Nieuwoudt came to their aid. "There was so much punching," it was not possible to see who hit whom, and they fell on top of each other", Snyman said. "During the scuffle he bumped his head against the wall and that is how he got injured."

Snyman says he was not involved in any of this, and in fact, after reporting the struggle to Goosen, he had no further dealings with Biko. Goosen said he would take over the entire matter from then onwards.

Snyman heard subsequently of Biko's death in Pretoria. Snyman and his counsel, Kobus Booysen now refer to all evidence from 20 years ago as "Goosen's statement".

Asked why he had not objected to being part of the fabrication at the time, Snyman said "It is clear we were guided by Goosen. Colonel Goosen was a very determined person and once his mind was made up, he could make everyone join him."

Snyman says Goosen concocted the lie to hide the fact that police waited nearly 24 hours before seeking medical treatment for the brain-damaged activist.

Bizos was drawn to comment "Might we infer a tendency on your part to put the blame on the dead? — Mr Biko, Colonel Goosen and General Hendrik van der Berg, who is not in the application, but has since the application died, and is mentioned today as having had influence from head office?"

Bizos put it to Snyman that the trail of falsehoods had started by the 7th, so that in case Biko lived, he would be branded a liar, as whatever claims he

mand answers through. "The policemen did nothing wrong?" he asked. "They acted in self-defence to protect themselves from an attack from Mr Biko? That is what your story is?"

Snyman "That is correct. We had to restrain him."

Bizos "If your story is true, you and your colleagues did nothing wrong. Mr Biko caused his own death and you and your colleagues are blameless?" Eventually, after much futile prodding, Bizos put it to the 69-year-old pensioner that he wouldn't answer the question because he could not answer it honestly.

The tedium of the long-winded cross-examination was relieved by the vigilant audience which provided some well-timed jeers, making sure the amnesty applicants were not in any doubt about opposition to their application, even though that will not count in the decision of the amnesty committee of the commission.

But perhaps the most enduring image of that first day of hearings is of the pitiful figure of Snyman, dizzy from the relentless questioning by Bizos, pleading with his lawyer, and eventually the amnesty committee that "Eks moeg [I am tired]", that he is an old man who is suffering from a number of ailments, that he cannot go on.

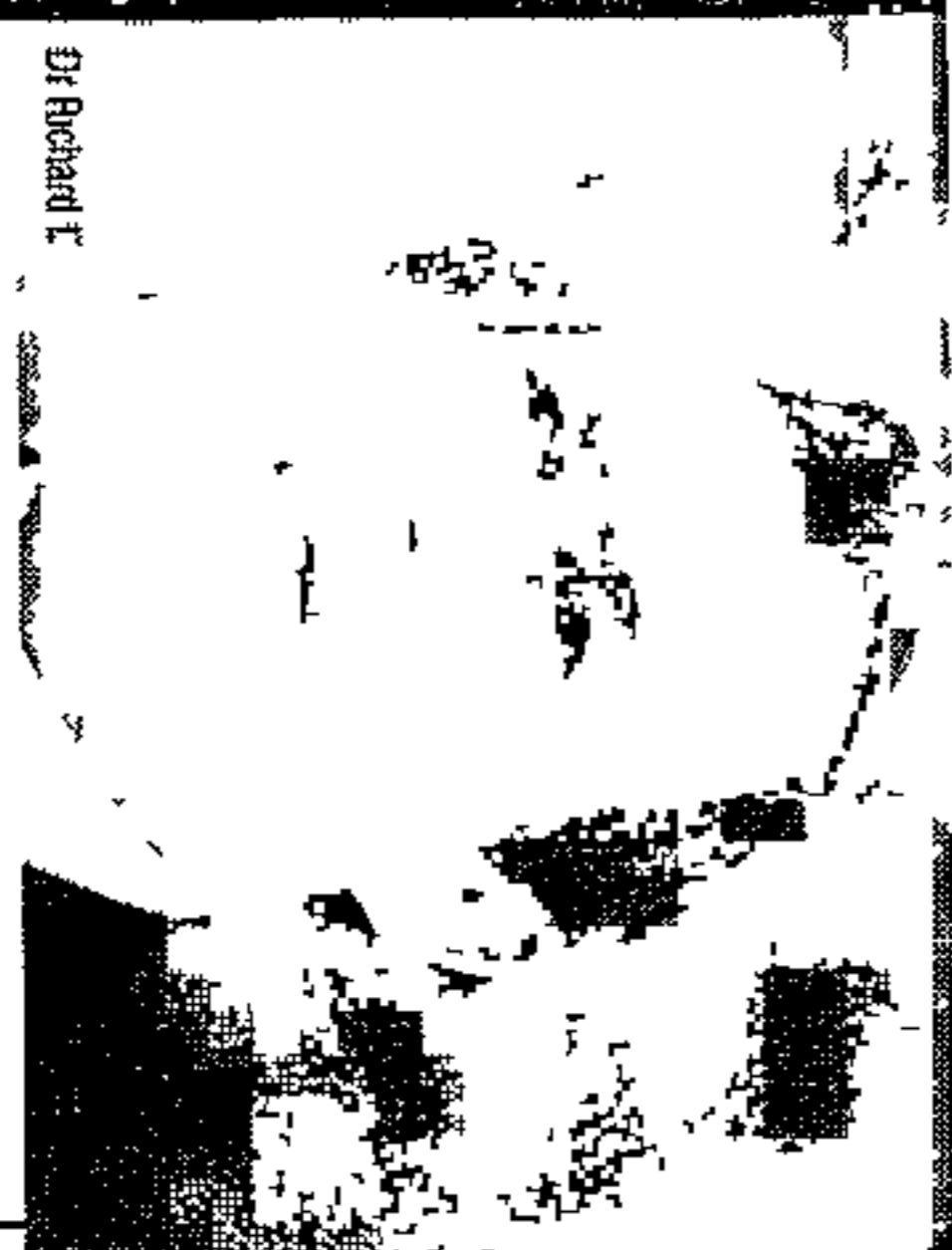
What a reversal of fortune for the all-powerful police officer of the 1970s and the 1980s, to find himself begging for mercy from three black men making up the committee. He was shown mercy and the hearing was adjourned. A very different from the experience of Biko, and the Cradock Four — Matthew Goniwe, Fort Calata, Sparrow Mkhonto and Sicele Mhlawuli — who were killed and their remains burnt, and for which Snyman and five others will appear before the amnesty committee next month.




DEBATE

LEAKEY vs HANKS

"Do species have to pay to stay?"

Out There Magazine and Gulf Steel will be hosting a debate between paleo-anthropologist and conservationist Dr Richard Leakey and Dr John Hanks, head of the Peace Parks Foundation, under the auspices of the Rhino and Elephant Foundation. The debate entitled "Do species have to pay to stay?" will be held at the Karos Indaba Hotel, Fourways, on Friday the 19th September 1997, at 19h00 for 19h30. Tickets are R40 each and seating is unreserved. Book through Computicket. Tel 083 909 0909.



joined the late Colonel Phel Goosen, his commanding officer in 1977, for the instructions to keep Biko naked, and to deprive him of sleep and food. After the activist was fatally injured, it was the same Goosen who instructed the investigation team to lie about the circumstances leading to Biko's death in statements to Major General Kleinhaus who investigated Biko's injuries, and to the inquest into his death in November 1977.

Throughout Snyman's testimony, his co-applicants — Gideon Nieuwoudt, Daantjie Siebert, Johan Beneke and Rubin Marx, who were members of the interrogation team Snyman led — did not give any indication that they agreed or disagreed with their former colleague's recall of events.

Snyman said the applicants had manufactured statements "in which the true facts of this case were adapted and concealed." But in his rendi-

scended it the jeering crowd terminated between staring into space while supporting his chin with his left fist, and looking around the hall as if trying to recognise people — his victims perhaps? He drank a lot of water and kept pouring water for Snyman.

"Why is he so thirsty? Did he pour even one glass for Biko?" the question came from an angry member of the audience. The only indication that Nieuwoudt was paying attention to the proceedings was when Bizos read from Siebert's application that during the alleged scuffle, Nieuwoudt was hitting Biko with a hosepipe, and with Siebert and Marx grabbed Biko and ran with him to the corner where they rammed him against the wall.

Snyman responded that he did not see that. At which point Nieuwoudt whispered to Snyman with his hand covering his mouth

and the witness's "To which Snyman said Biko had been confronted with certain evidence in the security police hands."

The following day, Snyman said, shortly after his leg-irons and handcuffs were removed, when offered a chair, Biko had got a wild expression in his eyes, jumped off the chair and threw the chair at Snyman.

Snyman got out of the way, then Biko charged at Beneke, punning him against the steel cabinet. Snyman and Siebert went to Beneke's aid but it took the added muscle of Marx and Nieuwoudt to overpower him.

He was chained to a metal grill but continued to struggle against his handcuffs and leg irons. Snyman reported the matter to Goosen, who went to speak to Biko whom he found to be incoherent and speaking in a slurred manner.

Goosen called Dr Ivor Lang to give Biko a medical check-up, after which Snyman and his team tried to communicate with an uncommunicative Biko. Snyman then gave orders for Biko to be allowed to rest on his mat while still handcuffed and chained to the grill.

On the following day, September 8, Snyman said he had found Biko still lying on the floor, awake, but would not respond to questions. Snyman knew that Dr Lang had found nothing physically wrong with Biko. He was aware too that Biko was taken to the prison hospital on September 8. Snyman said he was also present when Biko was sent on the journey to Pretoria on September 11 in the company of Siebert and other police officers.

Magistrate Marthinus Prins, presiding at the inquest, ruled that Biko's head injuries emanated from the reported scuffle and his death could not be blamed on criminal offence by anyone. All lies, insisted Snyman this week as he presented what he said were the true facts. First of all, the scuffle with Biko

member of the police and knocked his teeth out," said Snyman. "He was a big and strong man."

Beneke and Siebert could not submit Biko until Marx and Nieuwoudt came to their aid. There was so much punching "it was not possible to see who hit whom, and they fell on top of each other", Snyman said. "During the scuffle he bumped his head against the wall and that is how he got injured."

Snyman says he was not involved in any of this, and in fact, after reporting the struggle to Goosen, he had no further dealings with Biko. Goosen said he would take over the entire matter from then onwards.

Snyman heard subsequently of Biko's death in Pretoria. Snyman and his counsel, Kobus Booysen now refer to all evidence from 20 years ago as "Goosen's statement."

Asked why he had not objected to being part of the fabrication at the time, Snyman said "it is clear we were guided by Goosen. Colonel Goosen was a very determined person and once his mind was made up, he could make everyone join him."

Snyman says Goosen concocted the lie to hide the fact that police waited nearly 24 hours before seeking medical treatment for the brain-damaged activist.

Bizos was drawn to comment "Might we infer a tendency on your part to put the blame on the dead — Mr Biko, Colonel Goosen and General Hendrik van der Berg, who is not in the application, but has since the application died, and is mentioned today as having had influence from head office?"

Bizos put it to Snyman that the trail of falsehoods had started by the 7th, so that in case Biko lived, he would be branded a liar, as whatever claims he

mand answers through "The police men did nothing wrong?" he asked "They acted in self-defence to protect themselves from an attack from Mr Biko? That is what your story is?" Snyman "That is correct. We had to restrain him."

Bizos "If your story is true, you and your colleagues did nothing wrong. Mr Biko caused his own death and you and your colleagues are blameless?" Eventually, after much futile prodding, Bizos put it to the 69-year-old pensioner that he wouldn't answer the question because he could not answer it honestly.

The tedium of the long-winded cross-examination was relieved by the vigilant audience which provided some well-timed jeers, making sure the

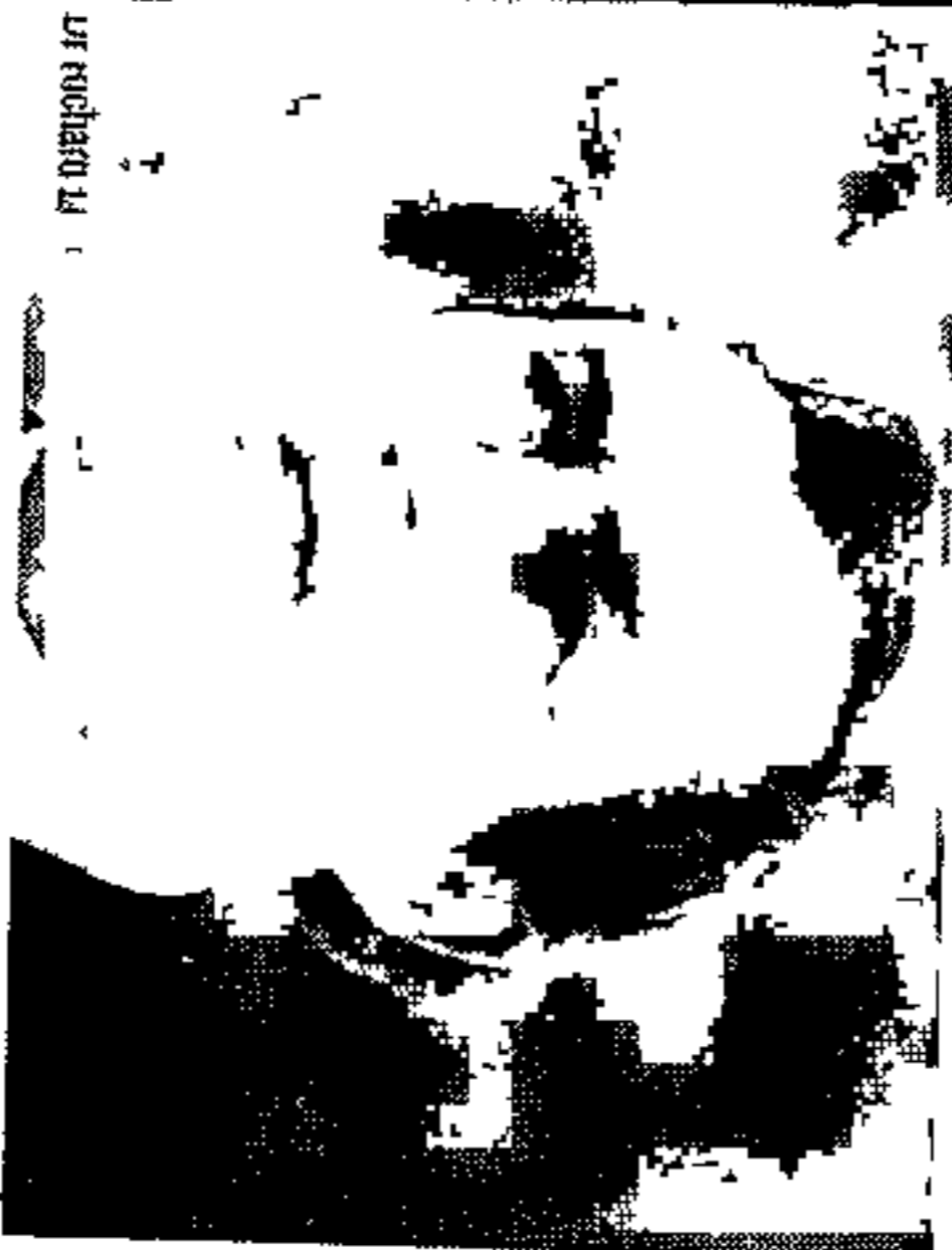
amnesty applicants were not in any doubt about opposition to their application, even though that will not count in the decision of the amnesty committee of the commission.

But perhaps the most enduring image of that first day of hearing is of the pitiful figure of Snyman, dizzy from the relentless questioning by Bizos, pleading with his lawyer, and eventually the amnesty committee that "Eks is moeg [I am tired], that he is an old man who is suffering from a number of ailments, that he cannot go on."

What a reversal of fortune for the all-powerful police officer of the 1970s and the 1980s, to find himself begging for mercy from three black men making up the committee. He was shown mercy and the hearing was adjourned. A very different from the experience of Biko, and the Cradock Four — Matthew Goniwe, Fort Calata, Sparrow Mkhonto and Sicele Mhlawuli — who were killed and their remains burnt, and for which Snyman and five others will appear before the amnesty committee next month.

DEBATE LEAKEY vs HANKS

"Do species have to pay to stay?"



Dr Richard Leakey

Out There Magazine and Gulf Steel will be hosting a debate between paleo-anthropologist and conservationist Dr Richard Leakey and Dr John Hanks, head of the Peace Parks Foundation, under the auspices of the Rhino and Elephant Foundation. The debate entitled "Do species have to pay to stay?" will be held at the Karos Indaba Hotel, Fourways, on Friday the 19th September 1997, at 19h00 for 19h30. Tickets are R40 each and seating is unreserved. Book through Computicket Tel 083 909 0909.



OUT THERE

TRC gets down to business

MTG 12-18-1977
(252)

The truth commission is to question business about its apartheid role, writes Charlene Smith

Was business an innocent bystander or active participant in apartheid? What was its role in South Africa's defence industry, security apparatus, sanctions campaign and homeland system and how did this impact on political conflict both directly and indirectly?

These are just two of the questions the Truth and Reconciliation Commission has posed to more than 50 business representatives, ranging from the Land Bank to the Chamber of Mines, Afrikaanse Handels Instituut, Business South Africa, the SA Chamber of Commerce and the Steel and Engineering Industries Federation of SA among others. Union comment has also been sought.

They have been asked for their submissions by October 10. The commission will then request some parties to testify on certain areas over three days in November.

Dr Fazel Randera, who is co-ordi-

nating the hearing, said this week that although the commission as a whole had received 12 500 submissions from victims and 7 000 from perpetrators of human rights abuses, "the rest of the SA community has seen themselves as divorced from this process". The commission has asked several specialists for their input, including Professor Nic Wiehahn, who wrote the Wiehahn report of the late 1970s that led to the decriminalisation of black trade unions, as well as academics and labour experts Professor Sampie Terre Blanche and Professor Charles Simpkins.

The Black Business Council this week tore strips off white business giants of the past for their role in apartheid. Don Mkhwanazi said that big business had been part of "atrocities blamed on politics, when capital and business were part of those atrocities in the economy". He believed it was "traitorous" that billions of rands had left the country in capital flight.

Dr Randera said the response of some members of the corporate world had been that "the business of business is business and they were just following laws and regulations. But how does business explain some of its relationships with the state? There was no law that said black workers had to be paid abysmal wages."

Most black businessmen, however, are cautious and suspicious — one executive declined to comment, "because we are a comparatively small company and most white business people are not happy with the commission asking them to testify".

But other business people have thrown themselves wholeheartedly into the effort. One of the most keenly awaited submissions is from Bobly Godsell, who heads the gold and uranium division at Anglo American. With Cyril Ramaphosa, now of Nall and former head of the National Union of Mineworkers, he pioneered the labour/business co-operative negotiations that could rightly be said to have laid a solid foundation for the multi-party talks. It is believed that Godsell has ap-



Seeking the truth: Business is called to answer for its role in the apartheid era

proached Harry Oppenheimer personally to ask if he will head any Anglo delegation. Godsell was abroad and could not be contacted.

There is a fear that the commission hearing will be a way of "putting business on the hook, and getting us to pay compensation," said one businessman.

Adrian du Plessis, a negotiator at the National Economic Development and Labour Council (Nedlac) for Business SA, notes that the common view is that "business was a beneficiary of apartheid and labour was a victim. Certainly SA experienced very high growth in the 1960s and 1970s, but by the 1970s South Africa was a fortress economy that led to inward industrialisation that was not self-sustaining.

"The wheel of growth," Du Plessis avers, "demands democracy. Capitalism can survive under illegitimate repression, but if we had not had repression our economy would be more broad based, operating at a higher level and working more profitably. An argument can be made that capitalism was a victim of apartheid."

Dasi Moodley, a former trade unionist with the Food and Allied Workers' Union, who is now an economist and consultant, says "Job reservation and job guarantees ensured South Africa could never meet its economic growth potential. The lack of skilled labour that ensued, and apartheid education policies, are still retarding South Africa's attempts to climb emerging markets indices."

The gurus of separate development deliberately steered the mass of the workforce toward labour-intensive industry and failed to envision capital-intensive, high-tech futures and the need for an educated skilled workforce.

While job reservation and low wages led to temporary highs in the economy with enormous profits for companies, they also fuelled the creation of militant unions, beginning in the late 1970s and accelerating in the early 1980s when workers pushed for high wages to escape from conditions of growing poverty.

It has only been in the last two decades or so that training imperatives have become glaringly appar-

ent — but despite that little progress has been made.

Certainly the unions are angriest about the role of business in, as they termed it, the military-industrial complex that the apartheid government became. Migrant labour, which began almost a century before apartheid, reached its zenith during this time.

South Africa's rate of mine deaths, among the worst in the world, also arouses anger about black blood building gold wealth primarily for the benefit of whites. And it was the mining houses that were initially most against any union activity, they banned meetings on premises, refused for a long time to allow union membership and generally did all in their power to resist what would become the most potent agent for social change in South Africa.

Fatalities are still high. According to the Chamber of Mines there were 529 deaths in mines in 1987, or a rate of 1.16 per 1 000 employees out of a total of 456 000 employees. Last year it slipped to just under one per 1 000 workers at 0.99, or 304 deaths from a workforce of 308 000.

Dr Nick Segal, president of the Chamber of Mines and vice-chair of Business SA, said the chamber would respond with "due gravitas. It is a complex story, there are no good guys and bad guys, but we will not flinch from problem areas."

Pointing out that migrant labour had been in existence for almost a century by 1960 (the commission has asked for submissions dealing with the years between 1960 to 1994) he said that efforts around wages and hostel improvements began in the 1970s.

"Mining is an unsafe activity, the deeper one goes the less safe it is. I don't know that as an industry we were involved in gross violations of human rights. And we will not be afraid to say that with hindsight we would have acted differently, but there are many things the industry has done which were positive."

"By and large we acted within the law and chose to do so, the same way that we act within the law now and often disagree with the present government."

P.T.O. To PAGE 39

TRC gets down to business

mtg 12-18/197

(252)

The truth commission is to question business about its apartheid role, writes Charlene Smith

Was business an innocent bystander or active participant in apartheid? What was its role in South Africa's defence industry, security apparatus, sanctions campaign and homeland system and how did this impact on political conflict both directly and indirectly?

These are just two of the questions the Truth and Reconciliation Commission has posed to more than 50 business representatives, ranging from the Land Bank to the Chamber of Mines, Afrikaanse Handels Instituut, Business South Africa, the SA Chamber of Commerce and the Steel and Engineering Industries Federation of SA among others. Union comment has also been sought.

They have been asked for their submissions by October 10. The commission will then request some parties to testify on certain areas over three days in November.

Dr Fazel Randera, who is co-ordi-

nating the hearing, said this week that although the commission as a whole had received 12 500 submissions from victims and 7 000 from perpetrators of human rights abuses, "the rest of the SA community has seen themselves as divorced from this process." The commission has asked several specialists for their input, including Professor Nic Wiehahn, who wrote the Wiehahn report of the late 1970s that led to the decriminalisation of black trade unions, as well as academics and labour experts Professor Sampie Terre Blanche and Professor Charles Simpkins.

The Black Business Council this week tore strips off white business giants of the past for their role in apartheid. Don Mkhwanazi said that big business had been part of "atrocities blamed on politics, when capital and business were part of those atrocities in the economy." He believed it was "traitorous" that billions of rands had left the country in capital flight.

Dr Randera said the response of some members of the corporate world had been that "the business of business is business and they were just following laws and regulations. But how does business explain some of its relationships with the state? There was no law that said black workers had to be paid abysmal wages."

Most black businessmen, however, are cautious and suspicious — one executive declined to comment, "because we are a comparatively small company and most white business people are not happy with the commission asking them to testify."

But other business people have thrown themselves wholeheartedly into the effort. One of the most keenly awaited submissions is from Bobby Godsell, who heads the gold and uranium division at Anglo American. With Cyril Ramaphosa, now of Nail and former head of the National Union of Mineworkers, he pioneered the labour/business co-operative negotiations that could rightly be said to have laid a solid foundation for the multi-party talks. It is believed that Godsell has ap-

and Labour Council (Nedlac) for Business SA, notes that the common view is that "business was a beneficiary of apartheid and labour was a victim. Certainly SA experienced very high growth in the 1960s and 1970s, but by the 1970s South Africa was a fortress economy that led to inward industrialisation that was not self-sustaining."

"The wheel of growth," Du Plessis avers, "demands democracy. Capitalism can survive under illegitimate repression, but if we had not had repression our economy would be more broad based, operating at a higher level and working more profitably. An argument can be made that capitalism was a victim of apartheid."

Dasi Moodley, a former trade unionist with the Food and Allied Workers' Union, who is now an economist and consultant, says "Job reservation and job guarantees ensured South Africa could never meet its economic growth potential. The lack of skilled labour that ensued, and apartheid education policies, are still retarding South Africa's attempts to climb emerging markets indices."

The gurus of separate development deliberately steered the mass of the workforce toward labour-intensive industry and failed to envision capital-intensive, high-tech futures and the need for an educated skilled workforce.

While job reservation and low wages led to temporary highs in the economy with enormous profits for companies, they also fuelled the creation of militant unions, beginning in the late 1970s and accelerating in the early 1980s when workers pushed for high wages to escape from conditions of growing poverty.

It has only been in the last two decades or so that training imperatives have become glaringly appar-

deaths, among the worst in the world, also arouses anger about black blood building gold wealth primarily for the benefit of whites. And it was the mining houses that were initially most against any union activity, they banned meetings on premises, refused for a long time to allow union membership and generally did all in their power to resist what would become the most potent agent for social change in South Africa.

Fatalities are still high. According to the Chamber of Mines there were 529 deaths in mines in 1987, or a rate of 1.16 per 1 000 employees out of a total of 456 000 employees. Last year it slipped to just under one per 1 000 workers at 0.99, or 304 deaths from a workforce of 308 000.

'Capitalism can survive under illegitimate repression ... an argument can be made that capitalism was a victim of apartheid'

Dr Nick Segal, president of the Chamber of Mines and vice-chair of Business SA, said the chamber would respond with "the gravitas. It is a complex story, there are no good guys and bad guys, but we will not flinch from problem areas."

Pointing out that migrant labour had been in existence for almost a century by 1960 (the commission has asked for submissions dealing with the years between 1960 to 1994) he said that efforts around wages and hostel improvements began in the 1970s.

"Mining is an unsafe activity, the deeper one goes the less safe it is. I don't know that as an industry we were involved in gross violations of human rights. And we will not be afraid to say that with hindsight we would have acted differently, but there are many things the industry has done which were positive."

"By and large we acted within the law and chose to do so, the same way that we act within the law now and often disagree with the present government."

P.T.O., To PAGE 39

Omar plugs justice brain drain

Mungo Soggot

Justice Minister Dullah Omar has blocked attempts by hundreds of his long-serving officials to take voluntary retrenchment. His ministry confirmed this week that 742 of its 13 400 workforce had applied for retrenchment packages, but only 43 had succeeded.

Omar, who has been accused of gunning for white justice employees, told the *Mail & Guardian* he had spiked applications that did not meet voluntary retrenchment rules.

He said the figures confirmed he was not bent on a purge of old-guard

civil servants. He has had to shoulder such perceptions since a high-profile court case brought against him last year by disgruntled white employees in the Department of Justice, who claimed they were victims of affirmative action quotas.

The Pretoria High Court sided with the employees and froze an appointment process in the justice department which saw white, male officials overtaken by black, less experienced women officials.

Omar said allegations that he had targeted old-guard employees were "absolute rubbish. If anyone asks to leave, white or black, I intervene from the ministry to find out why."

(252) mtg 12-18 H/a

The make up of the justice department is testimony to Omar's efforts to accommodate the civil service he inherited. The department is headed by Jasper Noeth, who was director general under the former minister of justice, Kobie Coetsee.

Noeth said this week most of the applicants for the retrenchment packages were attracted by the lucrative payouts and he did not believe the rush signalled widespread dissatisfaction.

Western Cape Attorney General Frank Kahn warned that unless prosecutors' salaries were improved "we are going to bleed. It's crisis management at the moment."

Two weeks ago Kahn's office was forced to withdraw charges temporarily against alleged Cape Town drug baron Colin Stanfield after the prosecutor and investigating officer in the case quit. Kahn has been forced to rehire the prosecutor at private-sector rates.

"The bottom line is you are going to get more Stanfield cases unless you increase salaries," he said. In the past eight months, five of his staff have left, three of whom were seniors.

"The present salaries are not competitive—you can't keep people on love, fresh air and promises. They become fed up, demotivated and they resign in the middle of a case know-

ing they will be retained."

Kahn said even the existing justice staff was insufficient, with some regional courts facing backlogs of thousands. Several state attorneys who have resigned have continued to work for the government, at considerable expense, on cases they were handling before they went to the private sector.

● Kahn has been mentioned as a possible candidate for the post of national director of prosecutions. The Bill creating the post was approved by Cabinet last week. Omar said his department had not considered candidates yet and was concentrating on getting the legislation passed.

TRC will examine role of major media players and their shortcomings in the apartheid years

By JACQUE GOLDING-DUFFY

The Truth and Reconciliation Commission will hold hearings next week to examine the role played by the media during the apartheid era.

Of the major players, the commission has received submissions from Independent Newspapers, Times Media Limited (TML), the Forum of Black Journalists (FBJ) and the Freedom of Expression Institute (FXI). The Afrikaans media has refused to participate and, in some quarters, the credibility of the commission hangs on whether it will use its muscle to force them into the process.

Independent Newspapers' (formerly the Argus group) submission to the commission, written by ex-editor John Patten, covers failures and shortcomings as well as difficulties and achievements within the group's newspapers during the period 1960 to 1990.

He admits that "proper balance to coverage of the political events was not achieved" and that "some" human rights abuses that could have been addressed were not. Patten states that the company's employment practices were racially discriminatory and that black journalists did not get promotions in accordance with their contributions to the group's newspapers. Black editors were also not

fully trusted with editorial responsibility and were subject to white supervisors.

Explaining the group's overall stance, he cites its position as an "establishment" company that believed in obeying the law, but that, working within the parameters of this image of respectability, the company "was desperately trying to be an agent of change through dispassionate reporting".

TML's submission, drawn up by its board of directors, rejects allegations that the company (known for most of the time under scrutiny as South African Associated Newspapers/SAAN) colluded in any way with the National Party government, saying that positive contributions from its publications far outweighed errors they may have made.

It lists these contributions as opposing new apartheid legislation; keeping alive the ideals of justice and fair play among liberal whites; creating a communications bridge which allowed the politically dispossessed to be heard in a society increasingly polarised and separated, and challenging the

official version of events.

It also states that the company spent large sums of money on legal battles to protect its editors in breach of publication laws.

While acclaiming itself as a "public watchdog against abuse of power", the company admits that in the "pressure chamber... the truth sometimes got lost in the undercurrents".

The truth sometimes

got lost in the pressure chamber

The FXI's

lengthy submission describes the political situation existing at the time and examines the response of the media to various events, such as the 1976 Soweto uprisings, and alleged collusion by major players with the police.

The Forum of Black Journalists' submission promises to criticise the way the white media often projected itself, and its handling of many black journalists in its newsrooms.

It will call on the commission to subpoena a number of people, including TML, ex-editors Ken Owen and Stephen Mulholland. The forum will also seek to expose spies within the ranks of the press and will call on former military intelligence operatives

to give evidence that will implicate two editors, both still employed by a major newspaper group, in spying activities, says FBj chairman Abbey Makoe.

The forum also intends to challenge the Truth Commission over the Afrikaans press's position of self-exclusion.

According to Makoe, it is important that lying or avoidance should not be tolerated at this stage because this would only harden opposing positions and increase tensions between black and white journalists in future.

But whether next week's inquiry will perform more than a ritual function and unravel the specific involvement of various parties remains to be seen.

Owen recently criticised submissions made to the TRC and the commission itself. The statements, he says, are "filled with platitudes and pious protestation... they try to stretch a blanket of journalistic respectability to cover the owners and managers... the result is not the truth".

He criticises the process of "generalised accusation, generalised defence" and the laying of blame on the "liberal media", saying that a proper inquiry would find the press had been a divided house and that of all the obstacles faced by journalists, "some of the greatest were placed by the owners and managers of the newspapers".

People's courts may be answer to relieving the burden

It has been suggested that people's courts begin operating on a legitimate basis. The raising of such a maligned ghost from our past has raised the hackles of some and been welcomed by others. **ELLIOTT SYLVESTER** examines the issue

South Africa's justice system is overloaded. It's a fact that cannot be ignored. To relieve the burden, ANC provincial deputy chairman and Gauteng premiership hopeful Mathole Motshekga is calling for the return of people's courts. If successful, his suggestion could complement two crippled systems operating in tandem - police and judiciary.

Statements such as "With our boxes of matches and our necklaces we will liberate the land" were common in the 1980s, and in some cases led to brutal cases of jungle justice. And, for some, the spectre lingers, making it hard to draw a distinction between kangaroo courts and legitimate people's courts like the ones Motshekga has in mind. Images of hacked and burning bodies typify views of kangaroo courts, which were prevalent in the 80s. After the 1994 death of the first kangaroo-court victim in the new South Africa, Tokyo Sexwale slammed such community actions, saying "We have never encouraged our supporters to create people's courts."

Further discouragement came from police punctuating reports of community justice with appeals to people not to take the law into their own hands.

Motshekga's shock suggestion was announced after last weekend's deliberation by the Gauteng consultative conference on local government transformation. Motshekga feels strongly that mechanisms to administer justice locally have been badly neglected.

"We can pool NGOs to involve municipalities and delegate powers to strengthen police forums," he said.

Mbulelo Musi, spokesman for Gauteng Safety and Security MEC Jessie Duarte, has made it known that public hearings and petitions will be set in motion "as a matter of urgency", to seek consensus on the matter. Legal ramifications must be considered and the Department of Justice will be consulted to establish guidelines to ensure the structure does not degenerate to vigilantism.

It is not the first time the call for community-based judiciary has been heard. In 1995 Willie Hofmeyr, the then ANC parliamentary justice committee chairman, said properly organised, controlled and supervised community courts should be recognised by the constitution. In August that same year Justice Minister Dullah Omar echoed his sentiments in Parliament. It was, however, at ground level that a successful transformation, to peaceful arbitration could not be fully realised.

own municipal or metropolitan police, community courts, legal advice centres and counselling services. People's courts would deal with community matters, referring serious cases to the authorities.

Motshekga feels that police as well as courts are unfairly criticised because they are expected to deal with petty crime, adding to the already growing backlog of cases. Ironically it is this very backlog which leads to delayed police and court action, and spurs communities into taking the law upon themselves, often with horrific results.

"Structures must be revised and cleansed," Motshekga explains. The system, he says, would have the capacity to address the needs of the people timeously. Because it is rooted in the community, justice would become a simple, swift procedure restoring faith in authority. Unlike kangaroo courts, punishment would adopt a constructive role. It would serve to educate and rehabilitate

"The modern courts did not drop like manna from heaven," says Motshekga as he explains his theory. Before colonialism, Africa had its own laws, its own justice system. Makgotlas (councils), similar to the Roman senate, meted out their own brand of justice to their communities. With the advent of colonialism, the development of African court structures was arrested.

In the 80s, when people's annoyance at the government's seemingly warped justice reached boiling point, they turned back to makgotlas. The old system, infused with modern urban ideals, was targeted by corrupt agents to perpetuate chaos in black communities. With legitimate leaders neutralised, communities fell prey to disjointed leadership. So the blood-thirsty judge-jury-and-executioner-style kangaroo courts were born, often feared by the very community from which they sprung.

Motshekga's proposed system would empower local authorities to establish their

the offender while restoring peace to the community.

Amanda Dissel, co-ordinator for the Criminal Justice Policy Unit at Wits University, supports the restorative aims but says it should have effective checks in place. "There should be feedback to Government so that they don't overstep their mandate."

Motshekga envisions the communities covering up to 80% of the costs involved because, "it is cheaper to administer justice at a community level."

National government could take care of the rest "because it supports the National Crime Prevention Strategy". He also sees the Business Against Crime forum as a possible avenue of support.

To stand any chance of success, the policy framework would have to be corruption free and as inclusive as possible, keeping all parties involved within the confines of the law. Only then would a degree of effective people's justice be realised.

SADF soldiers murdered our comrades, Bushmen claim

By PAUL OLIVIER

The Truth and Reconciliation Commission is to investigate allegations by Bushmen soldiers of the former South African Defence Force that white soldiers executed several of their comrades

Witness accounts of the alleged murders were submitted to the TRC this week following a major investigation by a *Saturday Star* news team into the disappearance of Bushmen in 1979 - the height of South Africa's border war against liberation forces

The investigation has revealed claims that some white soldiers in the SADF treated their Bushmen soldiers like animals and summarily executed any tracker who stepped out of line

Traumatised

The soldiers' evidence is being supported by the wives of two of their slain comrades, who said "our husbands were killed before our eyes" Several high-ranking officers and soldiers serving under their command have been implicated in the alleged murders.

"The allegations carry the ring of truth and indicate why this particular community is among the most severely traumatised in South Africa," said Roger Chennels, a human rights lawyer acting on behalf of the 'Xu Bushman clan

"Some medical research done on the community shows that the level of collective stress among its members is dangerously high

"The manner in which the San (Bushman) soldiers suffered during the bush war was unique and deserves special attention," Chennels said

Leaders of the 'Xu have named Sergeant Agostinho Kambinda, Cor-

poral C Kapisus, and P Ndala and K Kameia as being among the soldiers executed by white SADF soldiers.

The submission was made on behalf of members of the 'Xu clan by Cheryl Uys, a Cape Town filmmaker who provided extensive videotaped testimony on the alleged atrocities

TRC research director Charles Villa-Vicencio acknowledged receipt of the application by the 'Xu soldiers and the wives of soldiers allegedly murdered "The matter is enjoying our attention and has been referred to a special committee as well as the investigative department of the TRC," Villa-Vicencio said

A special TRC hearing into some of the activities of the former defence force would be held on October 9, 10 and 11 However, Villa-Vicencio could not confirm that the matter would be dealt with at hearings but confirmed that the matter had been referred for investigation

Senseless

'Xu leader Mario Mahongo told the *Saturday Star* from the 'Xu settlement at Schmuttsdrift near Kimberley that his people felt "the time has now come for us to ask for justice and to have our human rights restored.

"We want to know why we were treated like animals and why our comrades have been killed in cold blood by the SADF which we served loyally

"It is especially the women who have suffered the most and we believe that those responsible for the senseless killings should be exposed.

"They must tell us why they did it, and those families, women and children who have been affected should be compensated," Mahongo said

Star 13/19/97

(252)



New broom sweeps clean: Justice Minister Dullah Omar

W Cape courts get act together *Clusters plan*

(252)
ARG 13/9/97

STAFF REPORTER

Criminals who have been getting away with murder – and other crimes – because of the shambles in the courts are in for a rude shock.

An overhaul of magistrates' courts has begun in the Western Cape, which is taking the lead in reviewing the country's justice system.

Last week Saturday Argus reported that more than R200-million in taxpayers' money was lost each year through bad court management, as some magistrates have too little work and some too much.

And this figure was just the tip of the iceberg, based on statistics available only in the Western Cape and projected for the rest of the country.

It excluded the former homelands of Transkei, Bophuthatswana, Venda and Ciskei, where court management has been described as "non-existent".

Among the innovations now being introduced to end this shambles is organising magistrate's courts into "clusters" so that magistrates from quieter courts can be deployed to busier courts, where they are desperately needed, making much better use of available manpower.

In addition, magistrates will no longer be tied down by administrative tasks, which are to be taken over by others, leaving them free for judicial work.

The new system has been designed to come to grips with crime by applying human, financial and logistical resources within the same management system.

Announced by Justice Minister Dullah Omar in March this year, it has so far proved a success in the Western Cape by combining the administrative, judicial and prosecuting arms of the justice system.

"It has been designed in such a way that roleplayers can contact one another within minutes, because we are operating within the same system," said Cape Town's Chief Magistrate, Bertus Jooste.

"The new management system has for the first time brought harmony between the attorney-general, the chief magistrate's office and the chief director of regional administration in the province.

"We call on the director-general of justice to implement the new management system countrywide as soon as possible," Mr Jooste said.

"The seriousness of the situation becomes clear if it is borne in mind that the Western Cape has always had the best magisterial court management system.

"Serious management shortcomings have been exposed by the new system, with more than 18 000 court hours lost in the province under the old system, costing more than R14-million," he said.

The new system makes provision for clusters of courts to provide the framework for the efficient and effective management of the judiciary within a province, a sub-region and district.

The Western Cape was the first to implement de facto grouping of magistrate's courts into clusters.

The Cape Town cluster, for example, comprises a chief magistrate controlling the sub-regions of Malmesbury, Paarl, Worcester and Mitchell's Plain, each with their own districts.

The Wynberg cluster comprises a chief magistrate controlling the sub-regions of Oudtshoorn, Bellville, Goodwood, Kuils River and George, each with their own districts.

TRC to probe San 'executions'

SADF under spotlight

ARGUS 13/9/97

(252)

PAUL OLIVIER

The Truth and Reconciliation Commission (TRC) is to investigate allegations by Bushman soldiers of the former South African Defence Force that white soldiers executed several of their comrades.

Witness accounts of the alleged murders were submitted to the TRC this week following an investigation by a Saturday Argus news team into the disappearance of Bushmen in 1979 at the height of South Africa's border war against the liberation forces

The investigation has revealed claims that some white soldiers in the SADF treated their Bushman soldiers like animals and summarily executed any tracker that "stepped out of line"

The soldiers' evidence is being supported by the wives of two of their slain comrades, who said "our husbands were killed before our eyes"

Several high-ranking officers and soldiers serving under their command have been implicated in the alleged murders

"The allegations carry the ring of truth and indicate why this particular community is among the most severely traumatised in South Africa," said Roger Chennels, a human rights lawyer acting on behalf of the 'Xu Bushman clan

"Some medical research done on the community shows that the level of stress among its members is dangerously high

"The manner in which the San (Bushman) soldiers suffered during



Recompense 'Xu leader Mario Mahongo

the bush war was unique and deserves special attention," Mr Chennels said

Leaders of the 'Xu have named Agostinho Kambinda, C Kapisus, P Ndala and K Kameia as being among the soldiers executed by white SADF members

The submission was made to the TRC on behalf of members of the 'Xu clan by Cheryl Uys, a Cape Town filmmaker who provided extensive videotaped testimony on the alleged atrocities

Charles Villa-Vicencio, TRC director of research, acknowledged receipt of the application by the 'Xu soldiers and the wives of soldiers allegedly murdered

"The matter is enjoying our attention and has been referred to a special committee as well as the investigative department of the TRC," Dr Villa-Vicencio said

A special TRC hearing into some of the activities of the former Defence Force would be held on October 9, 10 and 11, he said

However, Dr Villa-Vicencio could not confirm that the matter would be dealt with at the hearings

'Xu leader Mario Mahongo told Saturday Argus from the 'Xu settlement at Schmidtsdrift near Kimberley that his people felt "the time has now come for us to ask for rightful justice and to have our human rights restored

"We want to know why we were treated like animals and why our comrades were killed in cold blood by the SADF, who we served loyally," Mr Mahongo said

"It is especially the women who have suffered the most and we believe that those responsible for the senseless killings should be exposed

"They must tell us why they did it and those families, women and children who have been affected should be compensated"

I acted in good faith, says Kaunda

Cebekhulu scandal gathers momentum as Mandela is implicated

(252)

AKS 13/9/97

Lusaka - Former Zambian resident Kenneth Kaunda yesterday said he had assumed that a request to imprison a key witness in Winnie Madikizela-landela's kidnapping trial had been made by then-ANC president Oliver Tambo on behalf of resident Nelson Mandela.

In a statement, Kaunda responded to a documentary recently screened on public television in Britain and South Africa regarding the case of atiza Cebekhulu

Kaunda's television interview was also detailed in a book about Cebekhulu - *Katiza's Journey* - written by British author Fred Bridgland. Cebekhulu disappeared on the eve of the trial in which he and Madikizela-Mandela were accused of involvement in the kidnapping of

teenage activist Stompie Sepele. Cebekhulu was later discovered in a Lusaka jail by former British MP Emma Nicholson

Kaunda said "The impression may have been created by an interview of myself (in the documentary and book) that I received a request personally from Mr Oliver Tambo on behalf of Mr Nelson Mandela to see to the holding in custody of Cebekhulu. "I must clarify that, in fact, I did not receive a direct communication from Mr Oliver Tambo himself on this matter. It was (Zambian) government officials who informed me that they had received such a request from officials of Mr Tambo."

Kaunda said he had then, in good faith, assumed that Mandela had supported "this initiative or action"

"The truth is that I have never

received a direct or indirect message from Mr Mandela on this matter"

Bridgland wrote that, according to Zambian government records, Kaunda himself believed Mandela might have been the mastermind behind the abduction and imprisonment without trial

Referring to the interview with Kaunda, he wrote "Kaunda recalled the Cebekhulu case, and Emma asked him whether Nelson Mandela had told him why he wanted Katiza Cebekhulu here and out of South Africa"

Bridgland quoted Kaunda's reply "He didn't give me any reason at all. What I did was to work on trust"

Kaunda explained that the message had come from Tambo

"He (Tambo) said that Nelson Mandela wants this man out of South

Africa. He said we must go by what Nelson had said about his. And so we took that on trust, and that's how the young man found himself in trouble"

Asked whether Tambo had claimed to be talking on behalf of Mandela, Kaunda replied "Exactly"

Earlier this week the President's Office said Mandela did not arrange for Cebekhulu to be taken out of South Africa or to be incarcerated in Zambia

The president also denied having met Cebekhulu during a visit to Zambia in 1992, as claimed in the book

The ANC yesterday said it hoped Kaunda's comment would clarify confusion arising from the book and television documentary about the roles of Mandela and Tambo

"We remain convinced that, as information of this nature comes to

light, the true character and intention of those behind the current campaign will be exposed"

From the moment the allegations in the book and documentary were publicised, "it became unacceptable and unfortunate that the name of President Nelson Mandela and that of the late Oliver Tambo were used at a time when the latter is not in a position to respond"

Cebekhulu claimed he was abducted and imprisoned in Zambia by the ANC to avoid implicating Madikizela-Mandela in the murder of 14-year-old Sepele and several other township activists

Cebekhulu, who is in hiding abroad, under Nicholson's protection, has applied for amnesty from the Truth and Reconciliation Commission - Sapa



Hiding: Katiza Cebekhulu and Emma Nicholson, who 'discovered' him in a Zambian jail

Shady character who says Winnie's a killer

Katiza Cebekehu was suspected of being a police spy

ST 14/9/97

(252)

CLAIM 1: When President Nelson Mandela visited Zambia in September 1992, Cebekehu was taken from prison and driven to meet the ANC president.

Cebekehu says in the book "There was Mandela and two other ANC officials — I don't know who they were — in a big room. It was a long meeting. I hid nothing, I told everything. He (Mandela) promised to work on my case and release me soon so that I could come home. He said the problem was that the South African government wanted to arrest me. It was the only time I have met Mandela. I can't say he was good or he was bad, he just listened."

COUNTER-CLAIM: Mandela denies that any such meeting ever took place.

There is, however, some corroboration for Cebekehu's other claim in this regard.

He says after his meeting with Mandela, he was called to the Zambian foreign affairs office to meet two white officials from South Africa's foreign affairs department. "They said I was a citizen of South Africa and I should return. I would be a free man and they would not put me in prison. They wanted me to return with them. I said 'No, I don't think it's a simple matter'."

The Department of Foreign Affairs confirmed this week that their officials had, as part of their duty to visit South Africans in foreign jails, paid Cebekehu a visit.

CLAIM 2: The book suggests that Mandela had a hand in Cebekehu's abduction from South Africa to a prison cell in Zambia.

Bridgland says Emma Nicholson approached former Zambian President Kenneth Kaunda, who said he had got a message from Mandela, through the late ANC leader, Oliver Tambo, that he "wanted Katiza Cebekehu here and out of South Africa."

Kaunda is quoted as having said: "He didn't give me any reason at all. What I did was to work on trust."

According to the book, when Kaunda was asked by Nicholson if Tambo had spoken to him claiming to be talking on behalf of Mandela, and that that was how the message came, the Zambian leader replied "Exactly."

COUNTER-CLAIM: Mandela denies that he had anything to do with Cebekehu's departure from South Africa.

This week Kaunda said "The impression may have been created by an interview with me and recorded in both the book and the film that I received a request personally from Mr Oliver Tambo on behalf of Mr Nelson Mandela to see to the holding in custody of Cebekehu."

Katiza Cebekehu, was to be a key witness in Winnie Madikizela-Mandela's trial for the kidnapping and assault of Stompie Seipei, but disappeared before he could testify in 1991. This week, in a book by Fred Bridgland called *Katiza's Journey*, Cebekehu finally told his story. Among the claims are that President Nelson Mandela was involved in his abduction and that he personally witnessed Seipei's murder. But, as CYRIL MADLALA writes, many of the claims he makes in the book are questionable.

communication from Mr Oliver Tambo himself on this matter. It was government officials who informed me that they had received such a request from officials of Mr Tambo. I had then, in good faith, made the assumption that Mr Mandela had supported this initiative or action. The truth is that I have never received a direct or indirect message from Mr Mandela on this matter."

CLAIM 3: Truth and Reconciliation Commission investigator Piers Pigou was pressured by his bosses not to pursue the Madikizela-Mandela investigation.

In the foreword of the book, Nicholson writes of Pigou "His unhappiness was evident from his calls. He was collecting evidence on Mrs Mandela, but was doing so against heavy political pressure in her favour from inside the TRC. (he) was in despair. His supporters wanted the Winnie Mandela case dealt with rapidly. He could not get the required data together before the autumn of 1997. He feared that a cover-up was under way."

COUNTER-CLAIM: Pigou says in a letter to the TRC this week "To infer that I might have left the TRC because of 'despair' or that my 'worst fears' were being realised is patently ludicrous and should be dismissed as such."

He had already tendered his resignation when he first spoke to Nicholson, whose conspiratorial attitude and position "simply complicated access to Cebekehu's information, and I immediately had suspicions about her own motives and her possible agenda. I informed my superiors and her possible agenda. I

was escaping a life of dire poverty, brutality and crime.

COUNTER-CLAIM: Community leaders in Mpumalanga, the ANC's Dr Meshack Hadebe and the IFP's Mlaba, who brokered the end to the violence in the township, say Cebekehu was regarded as a security agent by both factions, and feared for his life. He left Mlaba's house in a security forces vehicle.

CLAIM 7: The book says President Mandela's legal adviser Piers Pigou was given a tape in which Cebekehu described in Zulu how Madikizela-Mandela had allegedly killed Stompie Seipei.

"Hayson accepted the tapes but they were never broadcast, the lawyer kept them and has never made them public. In 1994 Hayson was appointed legal adviser in the office of the newly elected State President of South Africa, Nelson Mandela," Bridgland writes.

COUNTER-CLAIM: Hayson admits that he was given the tapes, but says he told the journalist who handed them over that he could not listen to them because it would have been unethical. At the time he acted as a lawyer for the Methodist Church and for the Rev Paul Verryn, who was being accused by Madikizela-Man-

SUSPICIOUS CLAIMS: Katiza Cebekehu has been described as 'very sick in his head' by a woman who

CARMEL RICKARD

OF THE large legal contingent at the 1977 inquest into Steve Biko's death, only one was at this week's amnesty hearings in New Brighton

George Bizos, white haired and even more wordly wise than in those days, has retained the distinctive figure of 20 years ago. Two decades of early morning vegetable gardening at his home in Johannesburg have not whittled down his waistline.

He wears the same half-moon style glasses and still peers over their frame as he asks a question, then looks away as the witness begins to reply.

At the time of the inquest, Bizos was one of two junior advocates in the Biko family's legal team.

Relationships formed in apartheid's bad days now stand him in good stead. He is often described as a "confidante" of President Nelson Mandela and he has the ear of Winnie Madikizela-Mandela, whom he defended in the Stompie Seipei trial and at her subsequent appeal. He is a close friend of Chief Justice Ismail Mahomed and of the President of the Constitutional Court, Justice Arthur Chaskalson.

He likes to recall waiting to take silk until the day the former minister of police and justice, Jimmy Kruger, retired. He refused to do so until then in protest against the man who said Biko's death "left him

Only one man is still on the case



LEGAL PEER: George Bizos

Most of the lawyers have gone on to higher things

ST 14/9/97 (252)

"cold" With the onset of political change, Bizos became an adviser to Codesa, and in 1991 joined the Legal Resources Centre's constitutional litigation unit where he is still based.

He acted for the government in the Constitutional Court's first case, which considered whether the death penalty was constitutional, and appeared for the Constitutional Assembly in two attempts to have its draft constitution ratified.

Ernie Wentzel, another lawyer involved in the 1977 Biko inquest, died of cancer aged 53, in 1986, much respected by his colleagues.

Leading Bizos and Wentzel was the legendary Sydney Kentridge.

Sir David Napley, president of the English Law Society at the time of the Biko inquest, wrote of Kentridge in his mem-

oirs "I cannot speak too highly of the skill, tenacity and dedication which he displayed in the proceedings. A quietly spoken cadaverous and serious-looking man, he made the remaining advocates by comparison look like pygmies."

When Kentridge left South Africa in the early 80s he was immediately accepted by the Bar in England, made a Queen's Counsel and has become as much a legend in his adopted country as in South Africa. He is still based in London but in recognition of his role in South African legal history, he was invited to serve as an acting judge on the Constitutional Court, and wrote the first judgment it handed down.

This trio of eminent advocates was briefed by Shun Chetty, an attorney who met Biko during their student days in

Durban and represented him in the South African Students Organisation trial of a number of Black Consciousness leaders.

Soon after the inquest Chetty left the country and re-emerged on the staff of the UN High Commissioner for Refugees.

Perhaps the most enigmatic of the lawyers at the inquest was Klaus von Lieres und Wilkau.

Deputy attorney general of the Transvaal at the time, his role was to ensure the ferreting out of all information that could possibly help the court. However, Kentridge said he thought Von Lieres was biased.

Citing ill health, Von Lieres resigned as attorney general of the Witwatersrand in 1996 with a golden handshake. He has since been involved in a number of high-profile cases including his successful defence of

former minister of defence Magnus Malan in last year's Kmakutha murder trial.

"Riet" van Rooyen, who appeared with Johan Smit for the police at the inquest, is now silk at the Pretoria Bar. He is remembered for the choice phrases he used to dismiss submissions by Kentridge such as declaring that talk of a police cover-up sounded "just Agatha Christie".

He also urged the court not to give the medical evidence more weight than that of the police witnesses.

Smit is now a judge at the High Court in Pretoria.

The doctors whose appointment to the treatment of Biko led to shake-up in the medical profession, were represented by Peter Pickard, now Chief Justice of the Ciskei.

Willem Heath, who appeared for the Prisons Department, was appointed to the Ciskei Bench in 1988 and heads a national inquiry into corruption.

District surgeon Ivor Tucker and colleague Benjamin Tucker escaped court criticism for their inadequate treatment of Biko. But their medical peers censured both doctors.

Tucker, now retired, was struck from the roll but returned six years later. Lang became Port Elizabeth's chief district surgeon in the 80s. He admits he and his colleagues were "totally under the influence of the security police", but is adamant he has learnt from his mistake. "The police knew we will not cover up any misdemeanour and that we will stand for any nonsense."

PE's fearsome security policemen terrify no more

BRETT ADKINS

SITTING on the platform in Port Elizabeth's Centenary Hall and flanked by their lawyers, the once-feared four former security branch members appeared strangely small and harmless.

Seeking amnesty from the Truth and Reconciliation Commission for death of liberation activist Steve Biko in 1977, the four ex-policemen were grim-

aced this week as their former colleagues faced a barrage of questions from counsel for the Biko family, which has opposed their amnesty applications.

The fifth applicant, Rubin Marx, 75, a former warrant officer, is unwell and will testify when the hearings resume on December 8, according to his attorney.

Like Marx, who retired in 1979, the others — with the exception of convicted killer Gideon Nieuwoudt, whose trial

for blowing up four people in a car bomb in 1989 attracted widespread publicity — have slipped into obscurity.

They are all retired, most having achieved high ranks since Biko's death, which sparked international outrage.

Nieuwoudt, 46 — who has applied for amnesty for 10 murders — was jailed for 20 years last year for the Motherwell car bomb blast, which killed three of his colleagues and an informer. He is on bail

pending an appeal.

Nieuwoudt retired on medical grounds in 1995 with the rank of lieutenant-colonel. He lives in Port Elizabeth with his wife and family, on a policeman's pension and income from business interests.

Former security branch commander Harold Snyman, 70, who had held the rank of major, led the interrogation of Biko. He retired as a full colonel in 1985 and now lives with his wife in Uitenhage.

His deputy 20 years ago was Daniel Siebert, 51, who left the security branch in 1988. Siebert retired as regional head of the CID in Mpumalanga in 1995 and lives in Jeffreys Bay.

The fifth applicant is Jacob Beneke, 48, who continued to work in the security branch for another two years after Biko's death. He left the public order policing unit in 1995 with the rank of lieutenant-colonel, and now runs an engineering business in Pretoria.

New versions of an old tragedy

But slain activist's family say security policemen's narrowing evidence doesn't go far enough

BRETT ADKINS

TWENTY years after Steve Biko's interrogators lied when they explained to the world how he died at their hands, question marks continue to hang over their testimony.

"We are hearing the same old things — it's not enough," said a representative of the Biko family at the Truth and Reconciliation Commission's amnesty hearings at the Centenary Hall in Port Elizabeth's New Brighton township.

While admitting that a string of lies was perpetrated by former security police chief Piet Goosen — now dead — two of the five applicants have clung to the story that Biko's death was unintentional, the result of a violent struggle after the activist went "wild".

Their evidence — led by frail and elderly former security police boss Harold Snyman — differs from that presented to the inquest held in Pretoria's Old Synagogue in November 1977.

At the inquest in 1977, the officers insisted that a "berserk Biko" had hit his head against a wall in their struggle to control him.

Snyman denied that Biko was assaulted in his presence, claimed the activist had been controlled with "reasonable force", and that he had thought the detainee was "just in a bad mood" when he wouldn't speak properly after his interrogation. However, on Wednesday this week, Snyman described a violent struggle, punches being thrown, and a Biko who looked like he had been "knocked out in a boxing match".

Another amnesty applicant, Daniel Siebert — a former brigadier — said in 1977 "I did not see it (the fall against the wall) myself".

This week he told the truth commission "The momentum of



DANIEL SIEBERT



GIDEON NIEUWOUTD

this wrestling and fighting was such that we lost our balance and ran into the wall."

Snyman, 71, spoke in a nervous, high-pitched voice, cutting a different figure from that of the feared chief interrogator of 20 years ago.

This week his replies to questions from Advocate George Bizos — representing the Biko family — often elicited laughter from the largely black audience.

Snyman, who has admitted lying under oath at the inquest, said Goosen gave instructions that the facts of Biko's death were not to be revealed.

This, he was told, was in the interests of the security police and the South African govern-

The lies of November 1977

"I had no reason to think that he was suffering from anything serious," Harold Snyman, a former Port Elizabeth security policeman, told the November 1977 inquest into Steve Biko's death when he was asked why he had not written anything in his occurrence book.

This week, the man who used to head the PE security branch's coloured and Asian affairs section, told the truth commission: "He appeared to be completely confused. He looked like someone who had been knocked out in a boxing match."

Here are other lies that were told: 1977: "The degree of force used on Steve Biko on September 7 to bring him under control was reasonable and only as much as to pin him on the floor and handcuff him."

1997: "He (Jacobus Beneke) ran in and shouldered Biko. He hit him roughly below the ribs. The deceased fell, stumbled or staggered backwards against the wall."

1977: Sydney Kentridge, for the Biko family: "In the course of the struggle did anyone hit Mr Biko?" Snyman: "No." 1997: "(Biko) was fighting the people... People were punching at each other and it was not possible to see who

hit who and if the punches found their mark. It became a very violent struggle." 1977: "The degree of force used shows how strong this man was. Five men were needed to pin him to the floor." 1997: "It is possible we acted in an inhumane manner."

Asked why he had lied at the Biko inquest, Snyman said that while he had been concerned, he had followed orders and, as a member of the security branch, had acted in "good faith" and did not want to cause an embarrassment to his branch or the government.

Daniel Siebert, who had the rank of captain at the time, told the 1977 inquest: "During the struggle we bumped against the wall and the possibility is not excluded that he (Biko) fell with his head against the wall. However, I did not see it myself."

This week he said: "The momentum of this wrestling and fight was such that we lost our balance and ran into the wall." 1977: PR van Rooyen, for the police: "Did the deceased at any time have the appearance of someone who had been smashed up?" Siebert: "No."

1997: Siebert: "We had to assist him out of the vehicle (at Pretoria Central Prison). We had to carry him on a stretcher."



NOTHING SERIOUS: Harold Snyman, a former major in the security police, who was on duty when Biko was beaten

narrowly."

Snyman told the inquest that Biko had then charged another officer, Jacobus Beneke, lashing out at him and pinning him against a cabinet. The others had rushed to Beneke's assistance and the struggle began.

But this week Snyman said Biko tried to sit down on a chair near him (Siebert). Captain Siebert grabbed Biko and yanked him off the chair. He screamed at him to co-operate. Biko clearly became angry and violently

pushed the chair in the direction of Siebert. Biko threw a punch at him but did not hit him."

Snyman said that Beneke "shouldered him (Biko). He hit him roughly below the ribs. The deceased fell."

(Warrant Officer) Rubin Marx and (Detective-Sergeant) Gideon Nieuwoudt had then joined in to help shackle and handcuff Biko.

"People were punching at each other and it was not possible to see who was hitting who and if the punches found their mark," said Snyman "It became a very violent struggle."

Snyman described the security policemen falling on top of Biko whose head slammed against a wall. "He appeared to be completely confused. He was lying with his head partially against the wall. He looked like someone who had been knocked out in a boxing match."

"He was speaking in a slurred manner and spoke unclearly. I also saw he had an injury on his lip and on his body."

SEP 14/9/97

(252)

In 1977 however, Snyman claimed he did not regard it as necessary to mention the fall against the wall in his affidavit, saying "The only injury I saw on Biko was a mark on his lip."

In his deposition to the truth commission, Siebert said he was aware that Nieuwoudt had hit Biko on the back several times with a length of hose pipe. But, in 1977, Siebert claimed that Biko's only injury was a "swollen lip sustained in the struggle."

After his interrogation, Biko was manacled to a grille by chains wrapped around the iron bars.

Bizos this week asked Snyman why it was necessary for Biko to be manacled to the bars in a way similar to that of a crucifixion.

Snyman "It was to break him down." The former security policeman later agreed that Biko may well have remained in that position overnight.

"I feel remorse," Snyman said during his testimony. "My conviction, from the depths of my heart, is that our activities were wrong. I want to ask that I be forgiven."

As in 1977, Snyman said he reported the scuffle to Goosen who, after trying to speak to Biko and getting no response, postponed the interrogation.

Siebert told the truth commission that Biko was taken to a prison hospital on Goosen's instructions. Siebert was later told to arrange transport to Pretoria on September 11. "It was clear his condition had deteriorated. We had to support him and his speech was affected."

Siebert said district surgeon Dr Benjamin Tucker examined Biko, who was foaming at the mouth. "Dr Tucker said he could not determine what was wrong," Siebert said.

During the overnight journey to the Pretoria Central Prison, Biko's condition worsened.

In 1977, however, he claimed that Biko's condition had not changed from the previous night. Biko died at the prison hours after his arrival in Pretoria on September 12.

Fivaz trashes Winnie's accuser

Police chief says Cebekhulu
'not a reliable witness'

CYRIL MÁDLÁLA
Political Correspondent

NATIONAL Police Commissioner George Fivaz has dismissed as "unreliable" evidence by Winnie Madikizela-Mandela's main accuser, Katiza Cebekhulu — the man who says that he can prove she killed teenage activist Stompie Seipei and ordered the murder of Dr Abu Baker Asvat.

And Fivaz's officials have effectively accused British MP Emma Nicholson, who has been sheltering Cebekhulu in England, of lying.

Cebekhulu made the claims in a BBC documentary and a book called *Katiza's Journey*, both released this week.

In a confidential letter to Democratic Party leader Tony Leon in May last year, Fivaz wrote that police concluded Cebekhulu was unreliable after he and Nicholson were interviewed in London in July 1995. Leon released the letter to the Sunday Times this weekend.

In her foreword to the book, Nicholson said Fivaz had dismissed Cebekhulu's evidence "on the false premise of several police interviews supposedly carried out with him in London. No such interviews had taken place."

But yesterday National Detective Services' Senior Superintendent Faizel Kader was adamant Cebekhulu had been interviewed on several occasions in London in July 1995 by Senior Superintendent Hoothar Thru Moodley.

This week Leon said he had furnished Nicholson with Fivaz's full response in May last year. "I received no reply. I can only conclude that Cebekhulu's claims are a storm in a tea cup, or this is a police cover-up." He intended handing his documentation to the truth commission and would make a "further announcement" on the issue on Tuesday.

According to Fivaz, Cebekhulu had given four versions regarding the death of Asvat. "It is evident that Mr Cebekhulu is not a reliable witness, and for this reason, could not be used as a witness in a criminal trial," Fivaz wrote.

Asvat, who was Madikizela-Mandela's personal physician, was gunned down in his surgery in Soweto on January 27 1989 by two unemployed youths,

Zakhele Mbatha and Thulani Dlamini, who were sentenced to death.

Allegations have persisted that Madikizela-Mandela hired the assassins to kill Asvat because he had refused to provide a medical certificate to prove that Cebekhulu had been sodomised.

Cebekhulu gave Fred Bridgland, the author of *Katiza's Journey*, two different versions of how Madikizela-Mandela had asked him to show the youths where Asvat could be found.

In the first, the youths arrived in a car at her house late in the afternoon on the day the doctor was killed, and she told Cebekhulu to show them Asvat's house. In the second, Cebekhulu told Bridgland the youths had driven up to Madikizela-Mandela's house a few days before the murder and she had asked him to show

them Asvat's surgery.

Cebekhulu said he had shown them the surgery (not the house), and they had dropped him off after doing a foot survey of it.

According to Bridgland, Cebekhulu had insisted the second version was correct.

But in his letter to Leon, Fivaz says "The investigating officer is of the

opinion that Mr Cebekhulu's knowledge about the death of Dr Asvat is from conversations between himself and Messrs Dlamini and Mbatha whilst they were detained at the police cells in Lenasia and Protea, Soweto.

"No evidence could to date be found to prove that Mrs Mandela had 'requested' that Dr Asvat be assassinated."

A spokesman for Fivaz said yesterday he considered it inappropriate to comment on the matter.

● Jerry Richardson, who was convicted of the murder of Seipei, said on television last night that Madikizela-Mandela had ordered Seipei's killing, but he refuted Cebekhulu's claim that she had stabbed Seipei herself.

Richardson, who was a member of Madikizela-Mandela's football club along with Cebekhulu, said "No other person killed him except me and Slash (another football club member) with instructions from Mrs Mandela."

The truth commission has subpoenaed Madikizela-Mandela to appear before its investigative unit for questioning on September 25 and will also hear Cebekhulu's amnesty application at a date still to be arranged.

**THE CLAIMS
AND THE
COUNTER
CLAIMS / 4**

(252)

ST 14/9/97

The ghosts returned, but the path to truth is still a sad mystery

PORT ELIZABETH — The world watched and wondered in amazement this week as the ghosts of Steve Biko and Colonel Pieter Goosen returned to Port Elizabeth after 20 years

This week's TRC amnesty hearings in the city should have laid them to rest, but it was as if they had inexplicably returned, in broad daylight, to reassert themselves

The five former security policemen who sat before Judge Hassan Mall in New Brighton's Centenary Hall this week — Harold Snyman, Gideon Nieuwoudt, Daniel Siebert, Rubin Marx and Jacobus Beneke — were asking for amnesty for the prolonged September 1977 assaults that led to Biko's death

In the end, after a brilliant cross-examination of Snyman over two days by Biko family counsel George Bizos, the old courtroom warrior had it right.

"If your story is to be believed, Biko killed himself and you and your colleagues are blameless," he told Snyman as the gallery shook with mirth

For most of us, the very essence of seeking amnesty implies the truth will finally be told in exchange. It is a prerequisite in the consideration of that amnesty, and so is proof of remorse

What happened in Port Elizabeth this week was Snyman saying it was his right to apply for amnesty in SA's new democracy. It was not as if they never cared about Biko's brain damage, he told Bizos, he and his men had merely followed Goosen's orders to "fight fire with fire".

Biko, he said, had been injured in a "scuffle" when he would not "co-operate" — or, in English, when Biko got tired of being made to stand for two days under systematic interrogation. It was the same old tune Snyman sang at the inquest 20 years ago

Snyman's repeated depiction of a scuffle upset Bizos so much that he had the old interrogator taste his own medicine — while at least able to sit on a chair for two days unlike the shackled man he once tormented

Bizos' relentless grilling made Snyman beg off, telling Mall he was tired and on medication and could not continue. He could not once, preferring to "not remember", admit to what was obviously a "beat-

ing up" Heads shook in disbelief. And then there was Siebert, the man who in his amnesty application stated he and two colleagues had grabbed Biko by the neck and ran him head first into a wall while Nieuwoudt lashed the Black Consciousness leader's exposed back with a hose pipe

After that, still just "following orders", the brain-damaged Biko was shackled and chained over an iron grille for the next 24 hours

It took Bizos ages to get Snyman to admit this, but the answer was one still conditioned by hierarchy

"I had nothing to do with this instruction and I realise it was inhuman"

Incredibly, when he testified, Siebert denied his own signed statement this week and insisted on the men's time tested tale that Biko "accidentally" banged his head on the wall in a "scuffle" when he refused to stand any longer after two days of interrogation and began hitting back at his burly tormentors

Siebert did admit, though, that regulations for the treatment of detainees were blatantly ignored — and that there were standing orders to keep detainees naked

Snyman, 71, told the hearing torture was the officially sanctioned policy for detainees and that he and his men had deliberately lied, on the late Goosen's orders, at the inquest. The story, Bizos told him, was little different 20 years later

The gallery rocked with bitter laughter when Bizos told Snyman how convenient it was that "Mr Biko is dead, General van den Berg is dead, and so is Pieter Goosen"

Siebert, incredibly claiming he acted in good faith while a policeman, told the hearing the same Goosen, the man who told them to torture detainees, was an apartheid fanatic

"He was an example to us all and a strong leader," he said

Clearly not the kind of remorse an amnesty committee expected

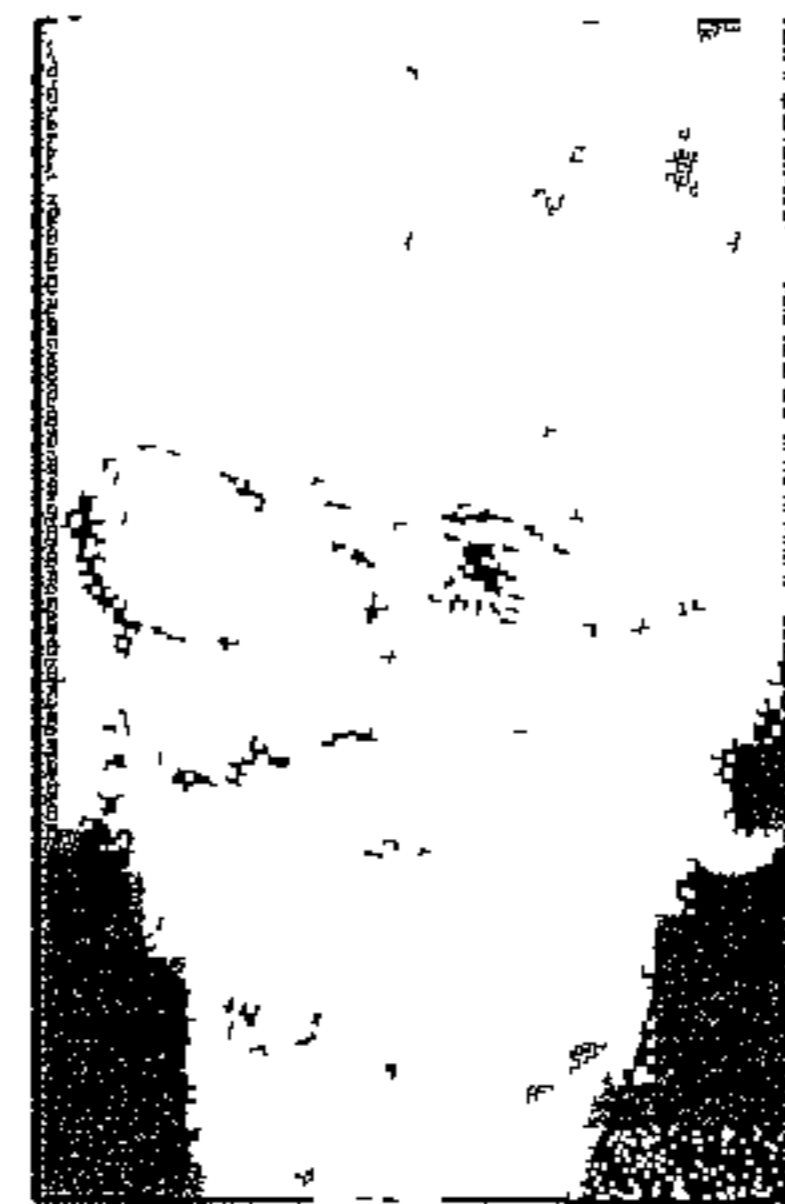
Following orders out of fear is one thing — following them out of admiration is another

Still no closer to one of the apartheid era's most elusive truths, the Biko hearing has been adjourned to December 8

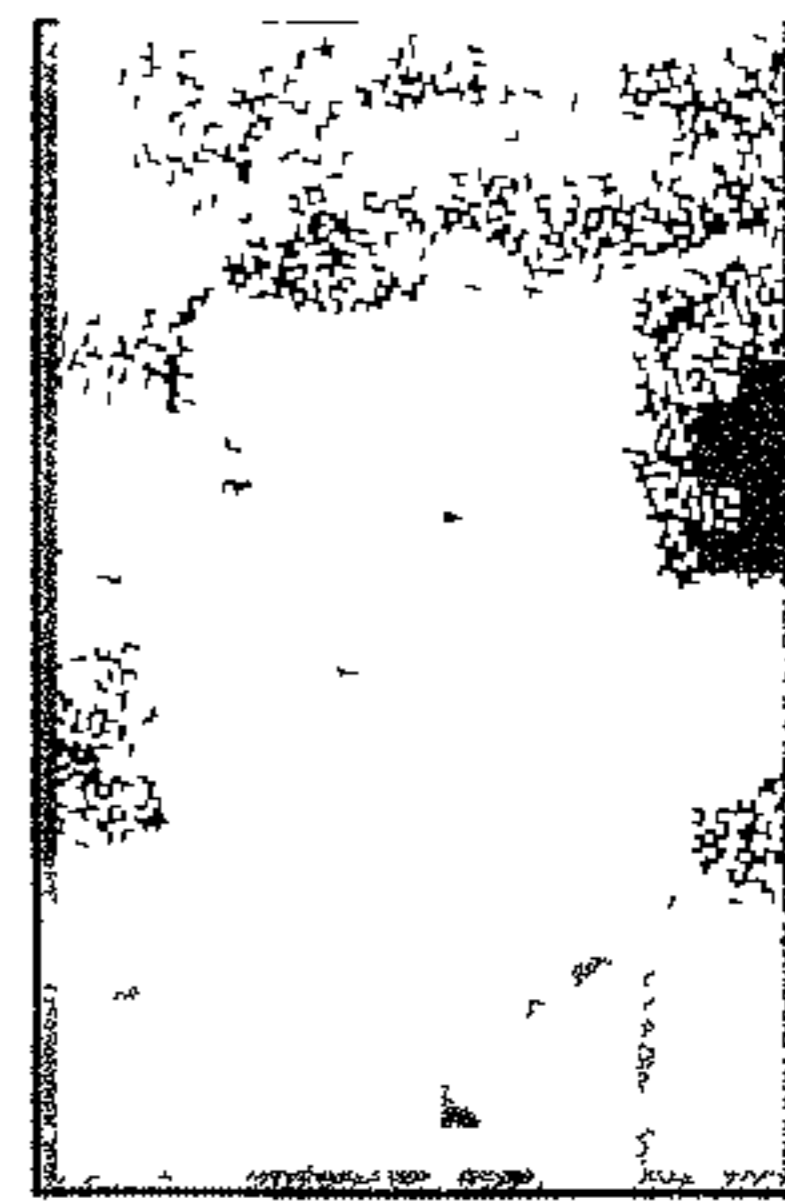
On Friday, however, 20 years had passed since Biko's death — and truth or not, no one can be prosecuted now — **ECN Weekend Service**



IN THE PACK ... Warrant officer Jacobus Beneke was among Biko's killers



COVER-UP ... Lieutenant Harold Snyman lied about the time of Biko's death



LEADER ... Capt Daniel Siebert lead the assault on Biko



THE HOSEPIPE MAN ... Detective Sergeant Gideon Nieuwoudt

Biko's killers spill beans — but will not pay the price

el 14/9/97 (252)

THE KILLERS of Steve Biko will never be prosecuted

After three harrowing days of evidence, we know more about how they murdered him, how they lied at Biko's inquest, how they buried the facts, how they skewered reality with their arguments. And yet they still want people to believe they "never intended to kill him"

And they will never go to jail for their vicious act. This stark fact emerged from legal sources in the Eastern Cape this week

This week the killers told how a gang of white Afrikaner policemen had rammed his head into a wall and left him to die in the back of a Land Rover as they drove him more than 1 000 km to Pretoria

Captain Daniel Siebert led his cops, like a pack of hyenas, on to the kill of a defenceless black man. Among them were Lieutenant Harold Snyman, Detective Sergeant Gideon Nieuwoudt, and warrant officers Rubin Marx and Jacobus Beneke

As they went in, Siebert's words were a chilling statement of apartheid: "We are in control!" he screamed at Biko, grabbing him by the shirtfront, yanking him to his feet

The five cops say Biko grabbed a

chair and threw it at them. They say one of them, Beneke, sprinted into the room, and like a prop forward, drove his shoulder into Biko.

Biko fought back, they say. They say punches were thrown

Gideon Nieuwoudt, the man widely regarded as the torturer of the Eastern Cape in the 1970s and 1980s, lashed Biko with a solid hose-pipe across the head. Repeatedly

Then, says Siebert, they grabbed Biko and ran, "vir volk en vaderland" — slamming Biko's brilliant brain into a brick wall

He collapsed

They picked Biko up, shackled him in Christ-like fashion by his hands and feet, arms outstretched

Then they realised what they had done. Snyman called his commanding officer, Colonel Piet Goosen, into the infamous Room 619 in the then-Sanlam Building off Main Street in Port Elizabeth. Goosen spoke to Biko

"There was no response. We could not continue the interrogation"

They left him chained to a security gate for the night. In the morning body fluids were flowing out of him

Snyman said Goosen — who has since died — ordered him to falsely

write in the police occurrence book that Biko had been hurt a day later — meaning he was only seen by a doctor the following day

September 7 came and went. And Biko stood there, shackled

District Surgeon Ivor Lang gave him a clean bill of health. They took Biko down and drove him to North End Prison, where he received minor medical attention

Goosen is blamed for ordering Siebert to drive Biko to Pretoria

Siebert says he found Biko "looking like an old man. He was shuffling and mumbling and frothing at the mouth. We had to support him because I was afraid he would fall"

"We placed him in a police Land Rover and when we stopped in Port Elizabeth for some food, I noticed he was shackled and naked"

Nine hours later, soon after sunrise, they handed him to Pretoria Central

That day Steven Bantu Biko died, alone, on the cement floor of a cell. Why did they move him from Port Elizabeth, asked advocate George Bizos

Snyman said they had been terrified that word of their evil deed and Biko's appalling condition would spark a rebellion — **ECN Weekend Service**



IN LOVING MEMORY... Save for an occasional tear during the Truth Commission hearing on the death of her husband, Steve Biko's widow, Nontsikelelo Biko, remained calm throughout
■ ALL PICS: MIKE MZILENI



AS CLEAR AS THE BLUE SKY... Some of the crowd that came to the Biko hearing in Port Elizabeth carried banners and placards with messages honouring the fallen hero

It was a policy to detain people naked — Snyman

PORT ELIZABETH — Thousands of angry and anguished followers of murdered Black Consciousness icon Steve Biko this week could have reached out and touched the man who played a leading role in his death in detention — ten years ago

However, despite a vocal demonstration by about 50 Azapo supporters — who wore bright yellow T-shirts with the word "Biko" emblazoned on their breasts, not a single gesture of physical hostility was levelled towards former lieutenant-colonel Harold Snyman of the feared Port Elizabeth security police, when he appeared at a TRC hearing in New Brighton this week

The black people of Port Elizabeth, and some whites, had not come for revenge. They came to hear what had really happened to Stephen Bantu Biko. There was total silence from the packed rows on the floor and up in the hall's gallery

But as the story unfolded under the unrelenting barrage of cross-examination by legal council George Bizos, the crowd grew more active

When Bizos stated with dripping sarcasm "If your story is true, Biko caused his own death and you and your colleagues are blameless" — the crowd roared with laughter

Then, when Snyman was cornered and forced to admit that torture was National Party and Security Police policy at the time, the crowd erupted, whistling and jeering

There were gasps of disbelief as Snyman said it was security police policy "to keep people detained naked" — **ECN Weekend Service.**

Katiza Cebekhulu: Absalom, Judas or just a survivor?

By CHIARA CARTER

BLOOD-DRENCHED and steeped in fear, threaded with names of the famous and infamous, aimed like a stake at the heart of one of the world's best-known women, Katiza Cebekhulu's tale is extraordinary, even for the strange times South Africa endured in the last decade of apartheid.

The story of the missing accused from the Winnie Mandela kidnapping trial was made public this week with the release of a book *Katiza's Story*, written by Fred Bridgland and a BBC documentary also screened in South Africa.

The details might not all convince, but the tale is riveting – a story rooted in the turbulence of the times in which a delinquent youth survived against all odds, to bear witness to what he says is the truth about the involvement of his one-time benefactor, Winnie Madikizela-Mandela, in "murder most foul".

Cebekhulu was the uncherished child of a single parent, a barely schooled petty thief who became embroiled in the conflict that engulfed KwaZulu-Natal.

Cebekhulu might not have been a hero, but from the outset he was a survivor.

He escaped KwaZulu-Natal for Johannesburg, and made his way to Orlando, where he met with Madikizela-Mandela, who took him under her wing and into her Diepkloof Extension home.

Cebekhulu moved into an outside room and was schooled, fed and clothed by Madikizela-Mandela, in return for which he was something of a houseboy.

Cebekhulu noticed the most powerful man in the house, David Themba, acting furtively as he left Madikizela-Mandela's bedroom.

He says he then entered the room, forced open a drawer, and discovered a set of photographs of Madikizela-Mandela nude with the lawyer Dalu Mpofo. He stole a photograph – which he hid under a kennel in the yard.

The next day he heard that Themba was dead.

Madikizela-Mandela's home was the centre of the Mandela United Football Club (MUFC), a grouping of youths who increasingly had become linked to thugery as much as sport and politics.

In November 1988 police attacked the home of the MUFC coach, Jerry Richardson, and two ANC guerrillas died. According to Cebekhulu, Madikizela-

Mandela pointed the finger at two youths, Lolo Sono and Siboniso Tshabalala, as being the sell-outs.

Sono was brought to the house and savagely beaten by MUFC members as well as Madikizela-Mandela, according to Cebekhulu.

Cebekhulu claims Madikizela-Mandela said Sono should be "taken away" – a term he says meant execution.

Cebekhulu was the youth who cried rape against Methodist minister Paul Verryn, prompting the kidnapping of 14-year-old Stompie Seipei Mooketsi and three other youngsters, from Verryn's house.

He now says it was a deliberate setup orchestrated by Madikizela-Mandela.

A "snatch-team" of armed MUFC members brought the four youths to Madikizela-Mandela's house, where they were savagely beaten.

Although Madikizela-Mandela has always held that she was in Brandfort at the time, Cebekhulu backs the subsequent testimony of two of the victims and says Madikizela-Mandela, wielding a sjambok, participated in the beating and together with Richardson, repeatedly threw Stompie to the floor.

The following day he saw Stompie sitting in the courtyard with a swollen head. The child told Cebekhulu he could not see and was unable to hold a cup. Cebekhulu said Madikizela-Mandela then shouted that the four were to be given no food and water.

According to Cebekhulu, Madikizela-Mandela became alarmed at Stompie's state and called Dr Asvat.

Cebekhulu says the doctor said the youngster had to be taken to hospital.

Instead, that night Stompie was killed. Dr Asvat was gunned down in his surgery on January 27, 1989.

Two unemployed men, Nicholas Dlamini and Cyril Mbatia, were convicted of the murder – the motive for which the courts decided was theft.

Cebekhulu now says Madikizela-Mandela had previously instructed him to point out the surgery to the two.

He suggests that the real reason Asvat

was killed was to silence the doctor, who had threatened to reveal what he knew about Stompie and had refused to provide a certificate saying Cebekhulu had been raped by Verryn.

Another child was to die at the hands of MUFC members – 13-year-old Finkie Msoni, who was the niece of Soweto Civic Association and Fedtraw activist, Dudu Chulu. The Chulu family had fallen foul of the MUFC.

Chulu's son, Sibusiso, was set upon by MUFC members in February. In the fracas, a MUFC member, Maxwell Madondo, was killed by Sibusiso – a crime for which Sibusiso Chulu later served a jail sentence.

In a revenge attack, the Chulu household was fire-bombed.

Little Finkie was shot with an AK-47 and her body burnt to cinders when the house was set alight.

According to Cebekhulu, these deeds were carried out on the instruction of Madikizela-Mandela.

Meanwhile, Stompie's rotting body was found and Richardson, in an interview with City Press admitted to the beatings.

He, together with Jabu Sithole, John Morgan, Falati, and her daughter, Nompumelelo, Mpho Mabelane and Brian Mabusa were then arrested.

A frightened Cebekhulu, while hiding out at the Honeydew home of a journalist friend of Madikizela-Mandela's, made tapes in which he told his tale. He says these tapes were given to lawyer Pink Haysom.

Cebekhulu was handed to the police by Frank Chikane while awaiting trial, Cebekhulu returned to the Diepkloof Extension house.

He says he was then drawn into another bizarre plot the downfall of Zinzi's boyfriend, Sizwe Sithole.

Cebekhulu says Madikizela-Mandela told him to give Sithole weapons, which were to be used in an attack on a police station. She then told him to tip-off the police about the attack. Sithole was then arrested.

He was interrogated and admitted to several crimes, including killing Thulu Dlamini.

The day after the historic announcement

that Nelson Mandela would be freed, Sithole made another statement to the police, in which he implicated Madikizela-Mandela and Zinzi in serious crimes.

He was found later the same day hanging from a waterpipe at John Vorster Square. The contents of his statement were not made public during the inquest, which found Sithole had taken his own life.

Then followed Richardson's trial and later the kidnapping trial of Madikizela-Mandela and the others.

By this time Cebekhulu was on the run once more. Tipped off by Morgan that his life was in jeopardy, Cebekhulu fled and lived rough in Johannesburg, returning to the Diepkloof Extension house to destroy the Mpofo photograph.

In January 1991, Cebekhulu was picked up by police, who he says returned him to the Diepkloof Extension house. A savage beating ensued during which Cebekhulu claims boiling water was poured over him.

He says he was then huddled into the boot of a car but managed to escape and make his way to Baragwanath Hospital for treatment.

He then hid out at Morgan's house, but made a surprise appearance outside the courtroom when the kidnapping trial started.

The numbers were thinning out in the kidnapping trial – several of the accused and witnesses skipped the country.

Morgan apparently took Cebekhulu to Shell House, where he says he was given a stark alternative by Madikizela-Mandela: leave and be looked after, or die.

He chose to leave and says he was smuggled out of the country by ANC men.

A stint in a downtown Lusaka hotel came to an abrupt end when he gave an interview to a Zambian journalist. Cebekhulu was flung into prison.

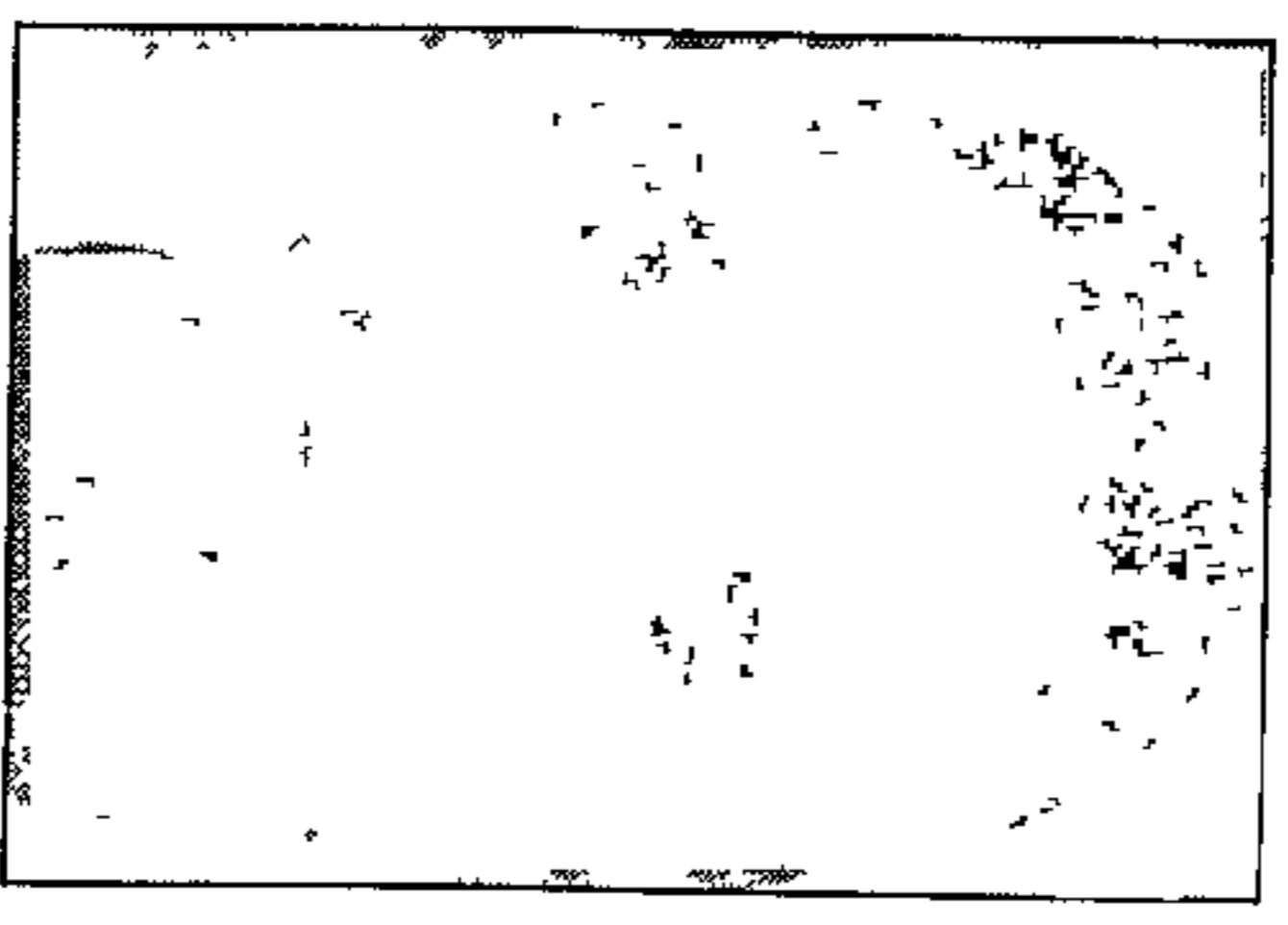
Zambia's new president, Frederick Chiluba, was a friend of the British MP Emma Nicholson, who approached the president to find Cebekhulu.

Eventually in May 1994, as President Nelson Mandela was inaugurated, Cebekhulu set off from Zambia for Liberia.

A year later, on a brief visit to Britain, he told his tale to Bridgland.

"Who is the big liar? Is it Winnie Mandela or Katiza Cebekhulu?" the book ends.

Nicholson and Bridgland have no doubts. Nicholson compares Cebekhulu to Absalom, the central figure in Alan Paton's classic liberal novel *Cry The Beloved Country*, and says he has been like a pilgrim on a



WITNESS... Cebekhulu can return and testify to the TRC

Epiphany (252)



statue in East London with Biko's widow Ntsiki Biko, and the slain Black Consciousness leader's close friend and

PICTURE BENNY GOOL

They didn't mean to kill Biko — brother

(252) ET 15/9/97

MR KHAYA BIKO has said he does not believe the security police killed his brother intentionally.

"They wanted to humiliate him as much as possible so that when he got out of prison he would know his place as a kaffir among other kaffirs," he said in a television interview with Steve Biko's son Nkosinathi.

The documentary, *Bantu Steve Biko. Beacon of Hope* — with Mr Nkosinathi Biko the executive pro-

ducer — premiered on television last night. It featured a range of interviews with people close to Biko, rare film footage of him, and some personal commentary by a son about a father he never really knew, yet who is so well-known.

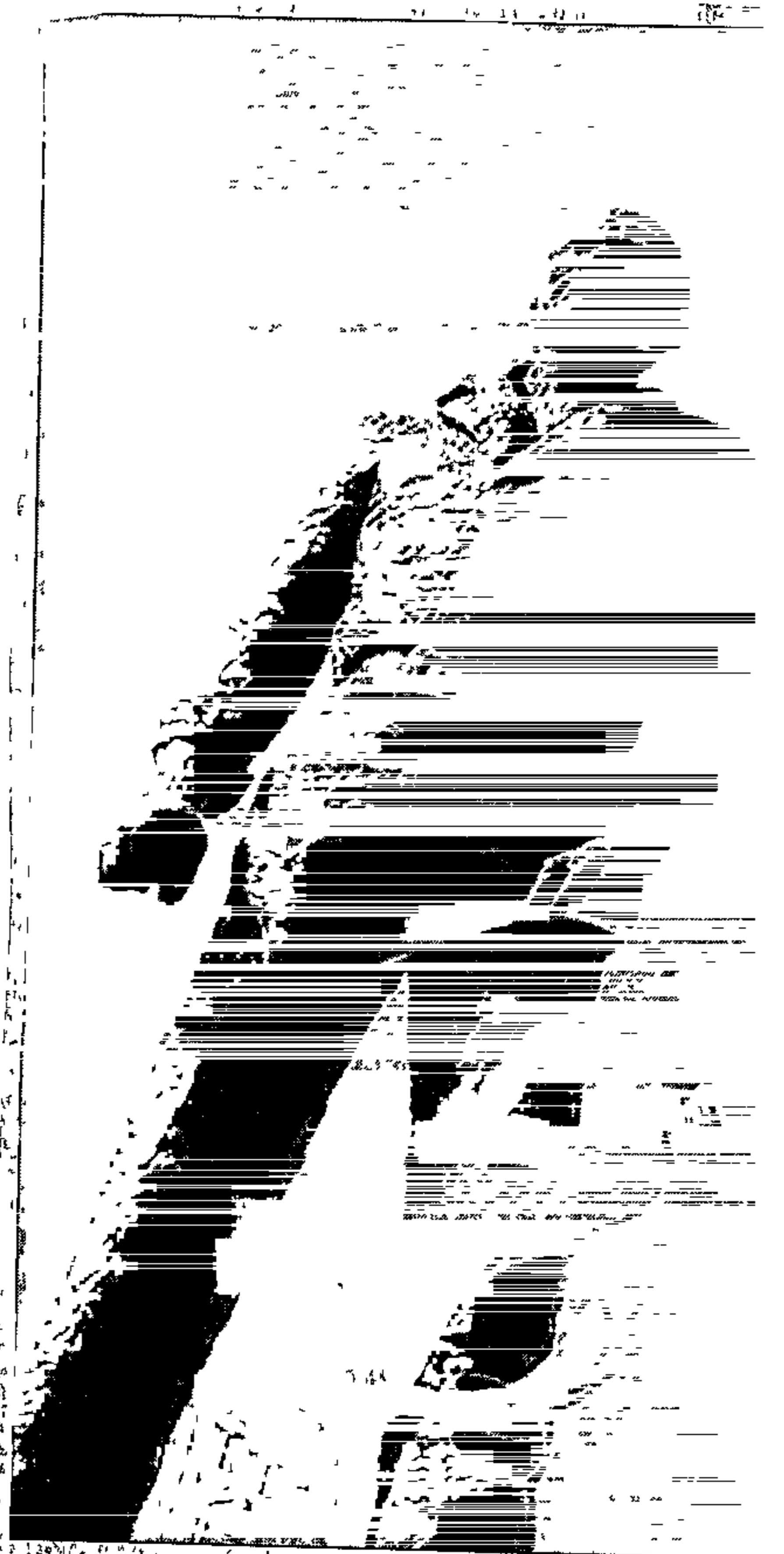
"For me and my siblings he was the father we never had, who we will always have," said Nkosinathi Biko.

Biko's widow, Mrs Ntsiki Biko, spoke about their meeting in Dur-

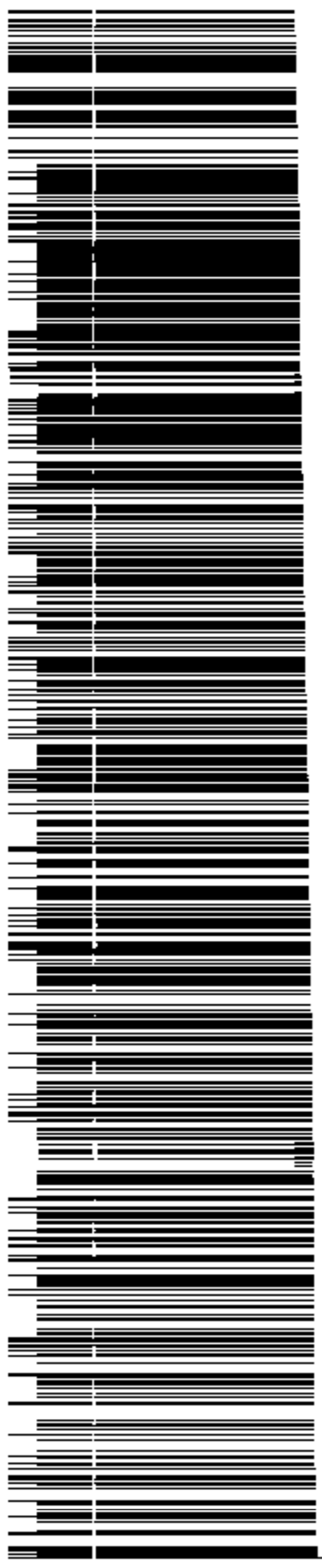
ban. From their first meeting she was struck by his dedication to black consciousness and empowerment.

She recalled how he used to introduce her to friends as "the actual embodiment of black — and black is beautiful."

"Port Elizabeth is known as the friendly city," Nkosinathi Biko said on his way to the torture chamber in which his father was fatally injured. "He emerged a cabbage," he added.



UNITE: President Nelson Mandela at the unveiling of Steve Biko
comrade, Mamphela Ramphele



59432
d for all

ACZA

D

Winnie told me to kill township girl - Richardson

APR 15 1997

252

Former Mandela United Football Club coach Jerry Richardson has implicated Winnie Madikizela-Mandela in the murder of township activist Kuki Zwane.

Richardson, serving a life imprisonment for the murder of 13-year-old Stompie Seipei, told the SABC's special report team on the Truth and Reconciliation Commission that he had applied for amnesty for Kuki's killing.

In an interview from Leeuwkop prison, Richardson confessed to

Richardson also claimed Mrs Madikizela-Mandela ordered Mrs Madikizela-Mandela to kill her.

"The fact that Kuki Zwane was killed is because Mrs Mandela handed me down a task and said: 'Richardson, Kuki Zwane is disturbing me, she's bothering me,'" he said.

Mrs Madikizela-Mandela believed Ms Zwane was a police informer, "so I took Kuki and I went to kill her", Richardson said.

"Her body was found and I was not arrested for that case."

Richardson also claimed Mrs Madikizela-Mandela ordered Stompie's murder.

He said she watched as he and another football club member called "Slash" assaulted the young activist.

Richardson's version contradicts fugitive witness Katiza Cebekhulu, who claimed in a BBC documentary and book that Mrs Madikizela-Mandela stabbed Stompie to death.

Mr Cebekhulu also claimed Mrs Madikizela-Mandela ordered the deaths of two other activists, Lolo

Sono and Stomiso Tshabalala.

Lake Nicholas Dlamini, who was jailed for the murder of Soweto doctor Abu Baker Asvat, Mr Cebekhulu claimed Mrs Madikizela-Mandela ordered the doctor's murder. Sunday newspaper's reported that Dr Asvat's family wanted the case reopened.

Meanwhile, another newspaper reported that national police commissioner George Fivaz had dismissed Cebekhulu as an unreliable witness after police questioned him about his claims in London in 1995 - Sapa



Jerry Richardson



Katiza Cebekhulu



Stompie Seipei

Winnie hits

back at

Cebekhulu

Sowetan

15/9/97

252

By Themba Molefe and Mongadi Matata

SO much credence was being given to Katiza Cebekhulu who has accused Mrs Winnie Madikizela-Mandela of murdering a teenage activist, her spokesman told *Sowetan*. "It is unjust to give so much credence to such an unbalanced person," Mr Allan Reynolds said before leaving for the Netherlands on business at the weekend.

His comments came amid questions whether Madikizela-Mandela physically took part in the murder of 14-year-old Stompie Seipei or if she gave orders for him to be killed. Meanwhile, the African National Congress Women's League (ANCWL) yesterday threw its

weight behind Madikizela-Mandela by nominating her for the deputy presidency of the ANC. On the issue of Madikizela-Mandela's subpoena by the Truth and Reconciliation Commission (TRC), ANCWL deputy general secretary Ms Noxawe Basopu warned: "The media must stop prejudging the matter. They must wait until the hearings have taken place."

Jerry Richardson, who is serving a life sentence for killing Seipei, claimed in an SABC interview that Madikizela-Mandela gave the order for him to be killed and that she did not take part in stabbing the child activist in 1988.

Richardson, a former "coach" of the Mandela United Football Club - the notorious bodyguard outfit of Madikizela-Mandela in the 1980s -

was interviewed in the SABC special report on the TRC, which was aired in full last night.

In the interview Richardson contradicted Cebekhulu, a former co-accused of Madikizela-Mandela in the kidnapping trial of Stompie Cebekhulu, in a BBC documentary last week, claimed he saw her stab the teenage activist twice with a sharp object.

We killed Seipei

"No other person killed him except me and Slash (another football club member) with instructions from Mrs Mandela," said Richardson, whose death sentence was commuted to life imprisonment.

He said they had raised Seipei to roof height and dropped him several times until his body went limp



Winnie Madikizela-Mandela ... subpoenaed by the TRC.

Madikizela-Mandela gave the instructions, he said. In a book by British journalist Fred Bridgland entitled *Katiza's Journey*, Cebekhulu also alleges that Madikizela-Mandela stabbed Seipei Cebekhulu and landed in a Zambian jail on the eve of the start of the trial.

Former British MP Baroness Emma Nicholson negotiated his release. He has been living with her in London since then. He claims he was abducted by the ANC to prevent him from testifying against Madikizela-Mandela and has since been in hiding under an assumed name.

Asked to comment on the allegations against his ex-wife, President Nelson Mandela said he was studying the book and it would be premature to comment. The TRC has subpoenaed Madikizela-Mandela to appear before its investigative unit for questioning on September 25. It will also hear Cebekhulu's amnesty application at a date still to be announced. The commission has also said it supports any move to have Cebekhulu placed in a witness protection programme to enable him to give evidence in South Africa. *Sapa* reports that Johannesburg attorney general Mr Andre de Vries withdrew the warrant of arrest for Cebekhulu on Thursday to facilitate his return for his amnesty hearing. ● See page 2

SABC 'an instrument to keep NP in power'

Star 16/9/97

(252)

TRC told that many senior managers of the corporation were members of the Broederbond and the State Security Council

By Robert Brand

SABC journalists routinely submitted "sensitive" items to their superiors for censorship before screening during the apartheid years, the Truth and Reconciliation Commission heard yesterday.

On the first day of its special hearing into the role of the media during apartheid, the commission heard evidence from a number of serving and former SABC employees.

Senior members of the corporation admitted having been members of the Afrikaner Broederbond and serving on subcommittees of the State Security Council. They spoke of censorship, "strong hints and suggestions", political pressure, self-censorship and guidelines on reporting which firmly defined the corporation as an instrument to help keep the NP

government in power. But they denied that they consciously acted as propagandists for apartheid.

Johan Pretorius, former editor-in-chief of television news, said the SABC reflected government views because it functioned under the Broadcasting Act, in terms of which the board was appointed by the government and accountable to Parliament.

"Did the SABC and its journalists contribute to human rights violations? Yes. Did the SABC help to keep the policy of apartheid going? Yes. But you must judge this in the historical context. There was never any conscious intent to abuse human rights," Pretorius said.

He said there was "serious talk in political and security circles" during the 1980s of placing the SABC under military control. The "low-intensity civil

war" of the 1980s placed the SABC on the government's side. Louis Raubenheimer, now head of SABC 3 and former head of actuality programmes and news comment on radio, said he had never received instructions from a politician about programme content. But he had vetted any programme with a "sensitive" content.

Raubenheimer said he had been a Broederbond member and attended meetings of Stratcom, a subcommittee of the State Security Council, but these bodies never tried to dictate programme content.

Don Briscoe, former head of the English documentary department of SABC television, denied the SABC practised political censorship. But he admitted that he submitted any documentary containing "sensitive" material to his superiors, who would order cuts.

Former media spies to testify to TRC today

By Robert Brand

Several former government spies are scheduled to testify today as the Truth and Reconciliation Commission's media hearing enters its second day.

They will not name journalists who spied for the apartheid government, hearing co-ordinator Hugh Lewin said.

The four former state operatives who are scheduled to testify are Craig Williamson, John Horak, Vic McPherson and former journalist Craig Kotze.

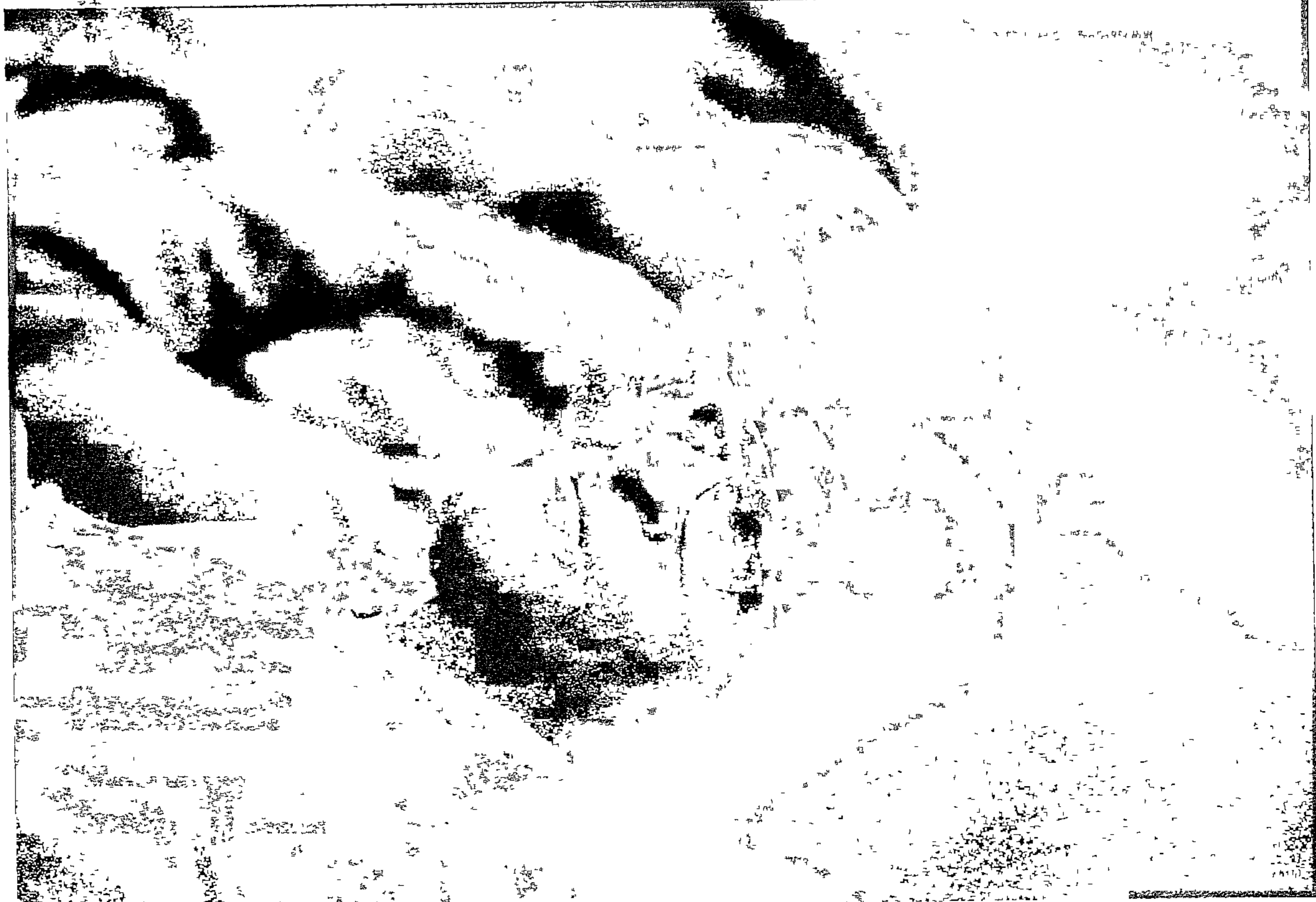
They will be questioned about the state's use of media spies to further its own interests. During testimony on the SABC yesterday, one senior manager in the corporation admitted that he was a member of the Afrikaner Broederbond and that he attended bi-weekly meetings of Stratcom, the State Security Council's propaganda subcommittee, during the 1980s.

Louis Raubenheimer, a former editor-in-chief of SABC news strategy and now head of SABC 3, said the Stratcom

meetings were held "merely for information purposes" and had no influence on the content of news programmes.

"The meetings were held to give us information about what was really happening in the country, but no follow-up actions were ever planned."

In other testimony, former SABC managers admitted censorship of "sensitive" material was the order of the day, and that the SABC actively supported the government during the conflict of the 1980s.



Home again Archbishop Desmond Tutu yesterday opened a special TRC hearing into the role of the media during the apartheid era. Tutu, who returned from the United States last week after undergoing treatment for cancer, was his jocular self as he introduced other TRC members. He later told The Star that he was feeling well and that the treatment had been successful.

SABC blacks flogged or fired

Reprimands for looking at white women

(252) ARG 16/9/97 (252)

Johannesburg - Blacks working at the SABC during the high apartheid era had the choice of being sjambokked or dismissed for petty offences - like looking their white superiors in the eyes or using white toilets - the Truth Commission heard today.



ON THE TRUTH COMMISSION

Jakes Nene of the Media Workers' Association of South Africa (Mwasa) told the commission's media hearing, being held at the SABC headquarters in Auckland Park that some black workers had opted to be whipped

Truth Commissioner Dumisa Ntsebeza, who heads the investigative unit, asked Mr Nene to give the commission further details.

"It's unbelievable - if it was not so serious it would be laughable," he said

He said later that the whippings had taken place between 1975 and 1985, and had ceased after Mwasa had intervened in 1986

Although most of the affected black employees had opted to leave the SABC, he said "10 to 20" had chosen to be whipped About 90% of the

SABC's staff had been white at the time, and management had selected some to inflict the whippings

Mr Nene said this had taken place at SABC offices in Pietersburg, at Auckland Park in Johannesburg, and at other centres

He said he would give the names of those who had been whipped to the commission for further investigation.

In his testimony to the commission, Mr Nene said that, before 1985, blacks at the SABC had been employed as translators and interpreters, working with white journalists on stories in the homelands

"Workers lived in fear. We were better off in prison than the workers at the SABC at the time," he said

"They were interviewed in Afrikaans and they had to speak good Afrikaans

"They were kept petrified by a regulation called section 14 In terms of section 14, any white at the SABC had the right to fire any black who was 'hardegat' (cocky)

"Workers got severe reprimands for looking at white women colleagues They had to give way in passages, when whites appeared "

In evidence yesterday, veteran TV producer and presenter Pat Rogers told the TRC that the former SABC did not fire the guns of apartheid, but polished them in much the same way as the Afrikaans Press did

He was one of several people who were or still are associated with the SABC who testified yesterday at the Truth Commission's three-day hearing into the role of the media in the abuse of human rights between 1960 and 1994

They included the current head of

'Elize had TV show axed'

Johannesburg - A television programme entitled *Durrell in Russia* was scrapped because President P W Botha's wife Elize objected to the title.

This was recalled by Stellenbosch University political economist Sampie Terreblanche at the Truth Commission media hearing yesterday

Professor Terreblanche, who served on the SABC Board from 1972 until 1987, said if the late Mrs Botha had not liked programmes, she had complained to her husband

President Botha had then com-

plained to Foreign Minister Pik Botha, Professor Terreblanche said

The Durrell programme had been scrapped after Mrs Botha expressed concern on hearing it was to be broadcast and the board was told something had gone wrong with the soundtrack

"It concerned a young man (naturalist Gerald Durrell) who walked around Russian forests and described the animals "

Professor Terreblanche said the SABC had been the "propaganda arm" of successive National Party governments "There can be no doubt about this "

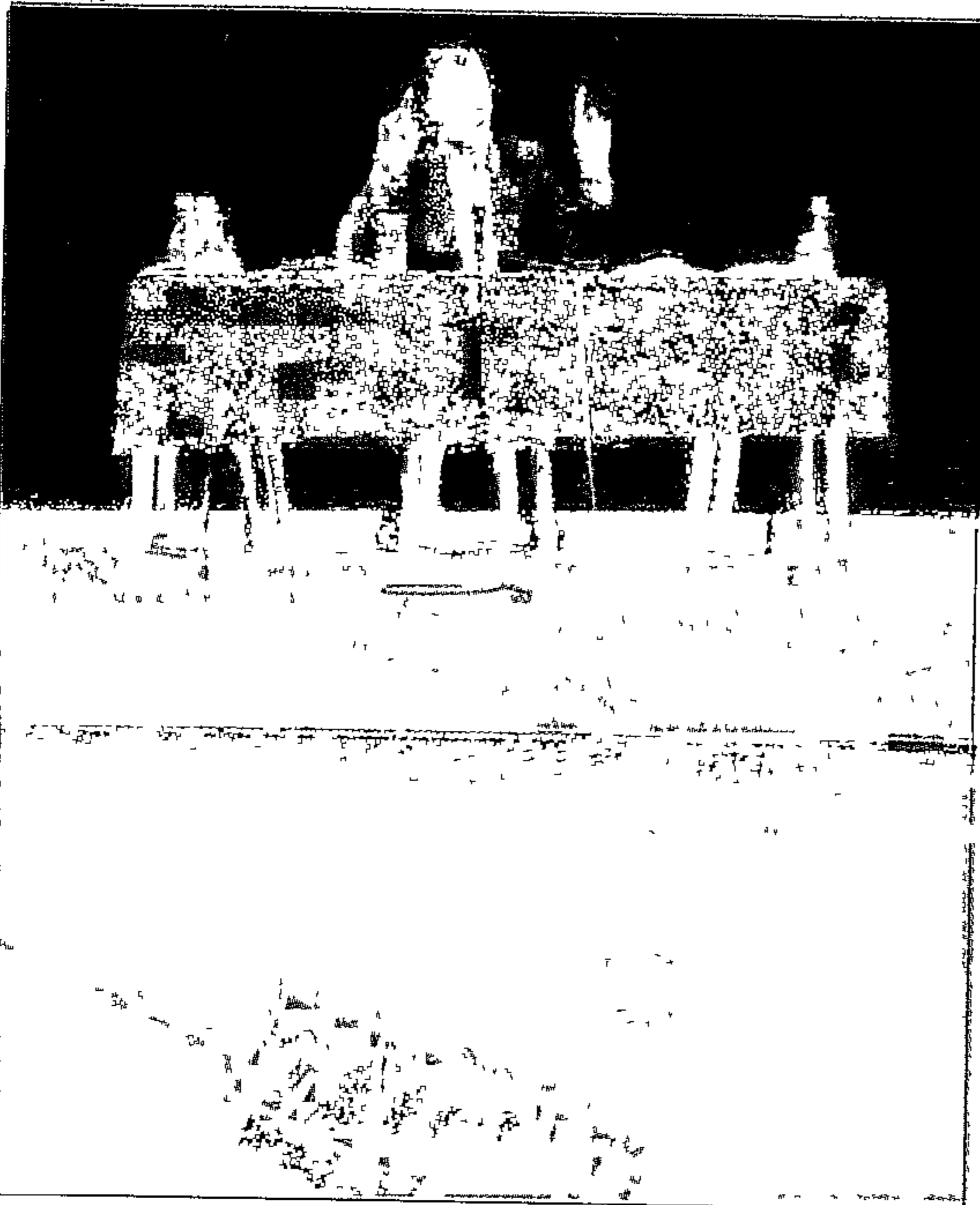
SABC 3, Louis Raubenheimer, who was in charge of actuality programmes and news comment in the late 1980s, Johan Pretorius, who was editor-in-chief of television news from 1989 to 1994; and Don Briscoe, who headed the documentary production department

Mr Rogers described Auckland Park - headquarters of the SABC - during the apartheid era as "a very weird atmosphere inhabited by some very weird people".

Censorship was a reality and the final success of this system was when producers censored themselves This had happened, he confirmed Also, pro-National Party propaganda was practiced

"It had been made clear by Mr Briscoe, after his attendance at a briefing by the South African Defence Force, that our priority should be military propaganda ('don't be afraid of the word') to combat the communist onslaught

"Only one producer accepted and delivered on this assignment," Mr Rogers said



THE STAR

Tables turned: SABC3 boss Louis Raubenheimer at yesterday's TRC media hearing

Tutu upset by Afrikaans press snub

(262) (243) AR 16/9/97
Johannesburg - Truth

Commission chairman Desmond Tutu is "distressed" over the negative attitude of the Afrikaans press towards the commission's media hearing this week.

But he still hoped it would testify, he said yesterday

One of the two giants of the Afrikaans media, Nasionale Pers, said it would not testify, but sent a copy of its company history

Archbishop Tutu said allegations had been made that the Afrikaans press had been the "sycophantic lap-dog" of the National Party government and the commission would not be able to determine the truth of this allegation if the press did not testify

"It will hamper our work since an important voice will be missing . they (the Afrikaans media) should certainly not blame the Truth Commission if we only reflect the views that were put before us "

He doubted whether the media was guilty of gross human rights violations

Star 17/19/97
**Black SABC workers
sjambokked, TRC hears**

BY ROBERT BRAND

Until the mid-1980s, black employees at the SABC who did not agree with National Party ideology were given the choice of summary dismissal or being sjambokked, it was said before the Truth and Reconciliation Commission yesterday.

In a submission made at the TRC's special hearing on the media, Tseliso Ralitabo of the Media Workers' Union of South Africa said the first blacks employed by the SABC "lived under frightening fear" of victimisation.

"The workers were kept petrified by a regulation called Section 14. In terms of Section 14, any white person at the SABC was an automatic boss and had the right to fire any black person who was *hardegat* (cocky)," Ralitabo said.

He added that offenders were given the

choice of being sjambokked, and a number of workers chose this option rather than dismissal without a disciplinary hearing.

This practice was still in use in 1985, Ralitabo said.

He said he could provide to the TRC the names of workers who had been sjambokked.

Another Mwasa representative, Zakes Nene, detailed the treatment of black journalists working in the mainstream white media during the apartheid years.

Nene said the "covert apartheid" practised by white-owned newspapers was more damaging to black journalism than state oppression.

"Black journalists were meant to be inferior to their white counterparts."

"The news they wrote was inferior, no news of political substance was given to a black journalist to write."

(252)



Former spy John Horak (above) told the TRC's media hearings yesterday that half the newsrooms of South African newspapers were populated by informers working for the old government. And former Stratcom (police strategic communications) commander Vic McPherson (inset bottom) gave a long list of almost every newspaper and magazine in SA who employed people who had promoted apartheid. Former spy Craig Kotze (inset top left), now a director advising National Police Commissioner George Fivaz, and a former crime reporter for *The Star*, said he believed the newspaper had been overrun by black consciousness adherents and ANC sympathisers in the 1990s. Former spy Craig Williamson (inset top right) said the media were used in the psychological and political war to win the hearts and minds of the South African public.

PICS: LEN KUMALO

Shock as TRC is told of media spies

Sowetan
17/9/97
252

Hearing attended by some of most senior journalists, academics and writers

By Simon Zwane
Political Reporter

SHOCKING revelations of journalists who worked as police informers and the manipulation of the media by the apartheid security police were made at the Truth and Reconciliation Commission's media hearing in Johannesburg yesterday.

A former *Rand Daily Mail* journalist, who was also a ranking police officer, John Horak, said journalists who spied for the previous regime continued to work for the police.

Horak said some reporters at *Beeld*, an Afrikaans daily, had served in the state security council's propaganda wing – strategic communications.

The hearing, attended by senior journalists, academics and writers, was told that the spy network stretched from owners of newspapers, through management, editors, news staff to messengers.

Horak said an editor of *Die Burger* in the 1980s was a member of the National Party caucus. He claimed that editors, whose names he did not mention, knew that he was a police officer while he was still a journalist and they used him when they ran into difficulties with the law.

Former *Rand Daily Mail* editor Raymond Louw had confronted Horak several times, alleging he was a spook (spy), but he had denied it.

He said when former police commissioner General Johann Coetzee wanted a story to be written about so-called superspy Craig Williamson, he had suggested former *Sunday Times* editor Ken Owen as the best person to do it. Owen was accordingly assigned to the story by the then editor Tertius Myburgh.

Myburgh was also identified in a picture taken during a so-called bosberaad with army and police generals.

Williamson said Myburgh and other journalists were taken to this bosberaad on the border of Angola as part of a briefing session

for people who worked for the police.

The briefing was about an alleged plot by the Soviet Union to take over Angola. He also told the hearing about a special relationship between the security police and the SABC.

Sapa reports that former Stratcom (police strategic communications) commander Vic McPherson had reeled off a long list of almost every newspaper and magazine in South Africa as having had employees who had promoted apartheid.

He was followed by former spy Craig Kotze, now a director advising National Police Commissioner George Fivaz.

Kotze was unrepentant about his role as an informer, which he felt had bolstered the police and security forces and had enabled South Africa to make a peaceful, negotiated settlement unbedevilled by fanatics on the right and left.

A former crime reporter for *The Star*, he believed the newspaper in the early 1990s had been infested with black consciousness adherents and later by African National Congress sympathisers.

He said revolutionary forces had created a state of war and were perpetrating gruesome acts of violence and terror. So he decided to work for the police.

He claimed he worked as a bona fide journalist who was not expected to inform on his colleagues or to lie. All he was supposed to do was to get stories which would bolster the image of the police, he said.

Horak said half the journalism industry was working for the security forces. Kotze said most of them were secretly working for liberation forces, McPherson said every newspaper was tainted.

Yet, when McPherson detailed the budget of Stratcom, the state organisation which co-ordinated spying and other activities, he revealed infiltration of the media during 1989 to 1990 had cost the state only R50 000 – from which payment was made to no more than 40 informers.

Media hit by spies and lies, TRC told

Star 17/9/97 (252)

State intelligence services had more than 40 operatives at different organisations by the late 1980s

By ROBERT BRAND

The state intelligence services had more than 40 operatives, at various news organisations by the late 1980s, including a journalist at The Star who held the rank of captain in the security police

Their role was to spy, to manipulate news and to ensure "positive" coverage of the police and military, it was said before the Truth and Reconciliation Commission in Johannesburg yesterday

Then state president FW de Klerk was fully briefed about these clandestine "strategic communications" (Stratcom) operations, former security policeman Vic McPherson told the commission's special hearing on the media

McPherson, who was in charge of the security police's Stratcom unit in 1989 and 1990, said he had established a network of about 40 "contacts" in the media, including undercover police officers, paid informers, well-disposed journalists and unwitting sources.

The media was a target for infiltration because the state saw them as a tool for propaganda and counter-revolutionary strategies, McPherson said

One undercover police officer was Craig Kotze, who worked at The Star for six years as a crime reporter and military correspondent

He later became a spokesman for law and order minister Adriaan Vlok, and is now communications adviser to Commissioner George Fivaz

Another was John Horak, who worked at several newspapers and the SABC for a period of 27 years McPherson said his own network also included eight paid informers, and about 30 other "contacts" such as unwitting sources and journalists who were well-disposed towards the security forces

These agents were based at more than a dozen news organisations, the Sunday Times, The Pretoria News, The Star, Rapport, the SABC, Beeld, The Citizen, Sapa, Reuters, Huisgenot, Sig, Republiek, se Pers, Rooi-Rose, and the BBC's South African office.

The aim of media infiltration was to wage "psychological warfare" against liberation movements, and all Stratcom projects were approved by the minister of police and, in principle, by the president.

Many of the projects were intended to discredit leaders of the Mass Democratic Movement through the publication of prominent reports embarrassing them

The budget for media-related Stratcom projects was R50 000, out of a total Stratcom budget of R4,5-million, McPherson said

The money was used to pay informants, for travel expenses and to entertain journalists. "Compared to other operations, it was actually quite cheap," he said

De Klerk had approved the projects on condition that they were "peaceful".

► More reports, picture

Former Star reporter confesses he was a mole

Alternative press 'remained pure'

By **ROBERT BRAND**

Director Craig Kotze, communications adviser to Police Commissioner George Fivaz, yesterday confessed for the first time that he was an undercover police officer while he worked as a journalist at The Star.

Kotze said he had been recruited by the security police to counter the "negative" reporting on police by English liberal newspapers.

"There were fitters among the audience when Kotze said his job as an undercover agent for the police was not to spy on colleagues, but merely to produce "good journalism".

"My task was to report,

within the normal journalistic channels and processes, on what was being done to fight crime and violence.

"It was my mission to balance what I came to perceive as a bias in the English media against the police."

Sporting a handlebar moustache and dressed in civilian clothes, Kotze said he had not joined the police out of ideological conviction, but because he felt it was the organisation best equipped to help bring about peaceful change in

South Africa.

"To put it bluntly, everybody was forced to choose sides in an ever-growing conflict. I chose the SAP and SADF not to defend apartheid, not to fight the liberation of black people, but to prevent slaughter."

Everybody

was forced to

choose sides

There was more laughter when Kotze described the police as an organisation devoted to peace and change, in contrast to the liberation movements which "killed thousands".

Kotze joined The Star as a

cadet reporter in 1984. At the time, he was not a security police member, although he was an officer in the Citizen Force.

He said he was recruited by the security police after becoming a journalist, and had managed to attain the rank of captain by the time he left in 1990.

Kotze was a crime reporter and military correspondent.

He said he was never favoured in his journalistic work by the "normal police structures", which did not know that he was an agent.

"I was expected to operate like any other journalist and I was, in fact, often scooped by opposition media on some big stories," Kotze told the truth commission.

The alternative media in the Western Cape faced security branch harassment, but still managed to produce newspapers which reported on community issues, the TRC heard in Johannesburg yesterday.

Journalists were shot, banned and detained, the premises of Grassroots newspaper burnt down and editors were banned. Reporters were the victims of a constant campaign of harassment. Grassroots editor Rashid Serra told the hearing into the media that the alternative press had refused to compromise its reporting, while the mainstream media had opted for self-censorship - Sapa.

LINDSAY YOUNG



ut the truth .. Craig Kotze told the TRC yesterday that he had spied for the apartheid
st at The Star Kotze was a crime reporter with the newspaper.

How the security police used the media for propaganda

Joe Slovo, Allan Boesak, other activists and anti-apartheid groups were discredited and embarrassed by stories that were planted in the press by SA's intelligence agents

By Robert Braam

Former security force intelligence officers yesterday gave details before the Truth and Reconciliation Commission of "strategic communications" (Stratcom) projects to manipulate the media. Vic McPherson, who was the head of the security police Stratcom unit in the late 1980s, said he had personally "run" six projects in various newspapers during 1989 and 1990.

- A Mozambican intelligence officer who defected to South Africa, George Da Costa, was sent to Republikeense Pers, which published Scope magazine, with fake documents which could embarrass the Mozambican government. Scope bought the documents for R11 000 and ran a five-part series which had "quite an impact", McPherson said.
- During Operation Vula, police investigators confiscated a number of computers and cracked the code used by the Vula operators in their intelligence reports. One of these reports, which revealed that Joe Slovo was involved in Operation Vula while being part of the ANC negotiating team, was leaked to "certain journalists".
- "This caused great embarrassment for Mr Slovo and he came close to being withdrawn from the negotiation team," McPherson said.
- Cliff Saunders, the SABC's London representative, was given information and photographs about "trained terrorists" visiting the ANC's London offices. This was intended to embarrass the ANC and the UK government, which had refused to act against the organisation. The documentary "Had an impact" with the British government, McPherson said.
- When police spy Olivia Forsyth was released from detention in the ANC's Quatro camp in Angola, The Pretoria News got hold of a copy of the statement she had made to her ANC interrogators. The statement gave details of security police operations and spies.

"We approached the editor of The Pretoria News and said we would give them the exclusive story, but we wanted them to publish our side of the story at the same time."

"The intention was to discredit Forsyth so that her statement could not be believed. The operation was a success."

of the ANC," McPherson said. ■ Before the Gaborone raid - in which 13 people, mostly women and children, were killed - police had already prepared detailed statements for the media, identifying the targets.

This resulted in misinformed reporting about the raid, McPherson said. "The headline in the Sunday Times the next day was 'The Guns of Gaborone'."

Security police gave American author Emma Gilbey access to their files on Winnie Madikizela-Mandela for the purposes of a book she was writing on the future president's wife.

Another intelligence operative, Craig Williamson, said news was manipulated to discredit leaders of the United Democratic Front.

Police leaked information about South African Council of Churches president Allan Boesak's affair with his secretary, Di Scott.

"The Star eventually published the allegations," Williamson said.

Author was given access to Winnie's police files

After the election of the ANC's National Executive Committee upon the organisation's return to South Africa, information was leaked to The Citizen on the SA Communist Party affiliations of NEC members.

"The Citizen ran a story headlined: '57 Reds selected to top ANC body'. The purpose of the operation was to show that SACP members were in control

(252) Star 19/9/97

NPU 'forced to liaise with SADF'

Star 17/9/97

The Newspaper Press Union was forced to liaise with the former Nationalist government's defence department to ensure some news was reported during the apartheid years, the Truth and Reconciliation Commission heard in Johannesburg yesterday.

"The incentive was that some news was better than no news," former NPU president Jolyon Nuttall told a TRC hearing into the media.

The NPU met the SA Defence Force as part of the defence liaison committee, of which Nuttall, as NPU president, was co-chairman. Nuttall was NPU president from September 1988 until September 1990.

From 1981 to 1991 he was the manager of The Star, and for a while the Sowetan, during his tenure at Argus Newspapers (now the Independent Group), from which he retired in 1991.

Speaking in his own capacity, Nuttall said the NPU did not speak out

enough against apartheid. It also failed to encourage diversity, especially in print, and could have done more than it did, especially in terms of training and product development.

"Essentially this was because members were focused on their well-being and the survival of their own newspaper," he said.

It was also because half of the NPU members belonged to the National Party.

"The *Engelse pers* was seen as as much of a danger as the *swart gevaar*," Nuttall said. (243)

He said he had not enjoyed participating in the liaison committee.

"It was not my practice to hob-nob with the defence force or police."

Nuttall told commissioner Hlengiwe Mkhize that the relationship between the media and the SADF deteriorated in the 1970s and 1980s, becoming "at best frigid, at worst hostile" - Sapa (252)

Alternative ET 17/9/99 press beat odds

(252)

JOHANNESBURG: The alternative media in the Western Cape faced security branch harassment and intimidation, but still managed to produce newspapers which reported on grassroots and community issues, the Truth and Reconciliation Commission heard here yesterday.

Journalists were shot, banned and detained, Grassroots premises were burnt down and editions were banned by the Publications Control Board. Journalists were the victims of a constant campaign of harassment, including having their door locks sealed with glue, forcing them to be broken open and replaced.

Rashid Seria, one of the founders of Grassroots told the hearing into the media's role during apartheid that the alternative press refused to compromise its reportage of events in the country, while the mainstream media opted for self-censorship through the Newspaper Press Union.

Seria said the alternative media was an expression of a resurgence of activism in the late 1970s after the state's repression following the 1976 student uprising in Soweto.

Newspapers such as Grassroots Community Newspaper, Saamstaan magazine, New Era, Learning Roots and South continued to report on rural and township news.

"These publications were successful, not only in delivering news, but also in organising communities in opposition to apartheid and assisting in the establishment of community organisations," Seria read from a report prepared by various alternative press journalists.

He said the alternative media filled a void left by the virtual absence of news from townships and rural areas because of a lack of reportage by the mainstream media.

It sought to counter the depiction of the struggle as a terrorist/communist-inspired insurrection, gave communities a voice and built community groups, he said — Sapa

Papers deeply regret racist past

JOHANNESBURG· Newspapers of the Argus group (now Independent Newspapers, owners of the Cape Times) did not do nearly enough to fight apartheid, both nationally and in their newsrooms, executives of the company told the TRC yesterday

But the company had recognised its shortcomings, and had embarked on "vigorous" transformation to overcome them, chief executive Mr Ivan Fallon told the TRC's special hearing on the media.

The company's submission was delivered by Fallon, Independent Newspapers Cape managing director Mr Rory Wilson, editorial director Mr Shaun Johnson and Cape Argus editor Mr Moegsien Williams.

"While there were many achievements at the old Argus, there were too many shortcomings

"We make no bones about that, and

we regret them deeply," Fallon said

"But the company has changed dramatically (We) are now involved in a vigorous process of transformation "

Fallon rejected a statement made earlier during the hearing by Mr Thami Mazwai, head of Mafube Publishing and a former Argus employee, that the "apartheid mindset" lived on at Independent Newspapers

"Whatever has been said about the old Argus Newspapers, Dr Tony O'Reilly and Independent Newspapers (which bought the company in 1994) have been from the outset significant friends of the new South Africa," said Fallon

Wilson detailed the company's shortcomings and said although many editors and journalists had taken a "courageous stance" in opposing apartheid, more should have been done



"We believe the mood of the country is now rightly focused on injustices of the past, and on remedial steps," said Wilson

"Our company made insufficient efforts to overcome the obstacles of apartheid. Our staffs were generally too white, and blacks were only introduced on any major scale during the 1970s

"We made insufficient attempts to generate news from disadvantaged communities, and this led to a distortion

"The alternative press showed up our company for having lost touch with the oppressed masses "

Wilson said Independent's new management was doing "a great deal" to overcome historical imbalances through training, a "fast track" programme for previously disadvantaged staff, an executive development programme and a "comprehensive affirmative action programme" negotiated with all its trade unions — Own correspondent

ET 17/9/97

252

'FW WAS FULLY BRIEFED'

Spy web in SA newsrooms

CT 17/9/97

JOHANNESBURG: Police spies in the newsrooms of South African newspapers and other news organisations were used to spy, manipulate the news and give positive coverage to the police and military.

HERE had been more than 40 informers working for the old intelligence services in the newsrooms of South African newspapers in the late 1980s, the Truth and Reconciliation Commission heard yesterday.

Then state president Mr F W de Klerk had been fully briefed about these clandestine "strategic communications" (Stratcom) operations, former security policeman Mr Vic McPherson told the commission's special hearing on the media.

McPherson, who was in charge of the security police's Stratcom unit in 1989 and 1990, said he had personally established a network of about 40 "contacts" in the media, including undercover police officers, paid informers, well-disposed journalists and unwitting sources.

The media had been a target for infiltration because the state saw them as a tool for propaganda and counter-revolutionary strategies, McPherson said.

One of the undercover police officers had been Craig Kotze, a police captain who worked at The Star for six years. He later became a spokesman for Law and Order Minister Adrian Vlok, and is now communications adviser to Commissioner George Pieter Anthoni. Another had been John Horak, who worked at several newspapers and the SABC for 27 years.

McPherson said his own network had also included eight paid informers and about 30 other "contacts", such as unwitting sources and journalists who were well-disposed to the security forces.

These agents had been based at more than a dozen news organisations: the Sunday Times, The Pretoria News, The Star, Rapport, the SABC, Beeld, the Citizen, Sapa, Reuters, Huisgenoot, Insign, Republikeinse Pers, Rooi Rose and the BBC's South African office.

The aim of media infiltration had been to wage "psychological warfare" against

liberation movements. All Stratcom projects had been approved by the minister of police and, in principle, by the president.

Many of the projects had been intended to discredit leaders of the Mass Democratic Movement through the publication of prominent reports embarrassing them.

The budget for media-related Stratcom projects had been R50 000, out of a total Stratcom budget of R4,5 million, McPherson said. The money had been used to pay informants, for travel expenses and to entertain journalists.

"Compared to other operations, it was actually quite cheap," he said.

McPherson said he had personally "run" six projects in various newspapers during 1989 and 1990. These were:

- A Mozambican intelligence officer who was sent to South Africa with fake documents to embarrass the Mozambican government. Scope bought the documents for R11 000 and ran a five-part series.
- During Operation Vula, police investigators confiscated a number of computers and cracked the code used by the Vula operators in their intelligence reports. One of these reports, which revealed that Joe Slovo was involved in Operation Vula while being part of the ANC negotiating team, was leaked to "certain journalists".
- Cliff Saunders, the SABC's London representative, was given information and photographs about "trained terrorists" visiting the ANC's London offices. This was intended to embarrass the ANC and the UK government.
- When police spy Olivia Forsyth got

(262)

out of detention in the ANC's Quatro camp in Angola, the Pretoria News obtained a copy of the statement she had made to her ANC interrogators.

"We approached the editor of the Pretoria News and said we would give them the exclusive story, but wanted them to publish our side of the story at the same time. The intention was to discredit Forsyth so that her statement could not be believed. The operation was a success."

● After the election of the ANC's national executive committee following the organisation's return to South Africa, information was leaked to the Citizen on the SA Communist Party affiliations of NEC members.

"The Citizen ran a story headlined '37 Reds selected to top ANC body,' McPherson said.

● Before the Gaborone raid in which 13 people were killed, mostly women and children, police had already prepared detailed statements for the media identifying the targets, McPherson said.

● Security police gave American author Emma Gilbey access to their files on Winnie Madikizela Mandela for the purposes of a book she was writing on the future president's wife.

Another intelligence operative, Craig Williamson, said news was manipulated to discredit leaders of the United Democratic Front.

Police had leaked information about South African Council of Churches president Dr Allan Boesak's affair with SACC staffer Ms Di Scott. "The Star eventually published the allegations," Williamson said.

McPherson said he had personally made a submission to De Klerk in 1989 on the media Stratcom projects. De Klerk had approved the projects on condition they were "peaceful" — Own Correspondent

● See Page 5



UDF A TARGET. Craig Williamson

Business hearings could affect economic relations

(252)

The truth commission hearing into the activities of business could provide new insights into how the corporate world benefited from the apartheid economy, writes **Simon Segal**

THE business hearing of the Truth and Reconciliation Commission in mid-November has the potential to be among the most interesting of all the hearings because of the centrality of its issues and the emotions and debates it engenders. After all, it focuses on the basic power relations in apartheid society whose legacies are still with us — job reservation, wages, access to resources, migrant labour, hostels and trade unionism, among others.

The commission's mandate is to try to arrive at as complete an understanding as possible of political conflict which characterised SA from March 1960 to May 1994.

The business hearing will focus on the roles of business and labour as crucial sectors of a deeply divided, violent and unjust society. It will go beyond business's role in gross human rights violations and incorporate a broader notion of human rights violations and power relations.

The hearing will be more flexibly structured and open-ended than others, to enable a few key players to reflect critically on the roles of business and labour.

At this stage it is envisaged that the hearing will concentrate on three broad themes:

□ The relationship between apartheid and the economy.

This covers issues such as whether business was an innocent bystander or active participant in apartheid.

Did business benefit or lose from apartheid? What positions were taken by organisations on political and social issues? How did this change and why? What powers and influence did business enjoy in the broader system? What was the effect on black business development?

□ Business, government and the trade unions

This theme incorporates the attitude of business towards unions and unions towards business.

The commission is looking at the process of change in the employer/union relationship. The role of white workers and their unions is also important to this debate. What was the attitude of management and union leaders to strikes and human rights? and

□ Total onslaught, total strategy and reform

This is perhaps the most difficult and controversial area. What

the hearing is trying to capture is a sense of business's participation in SA's defence industry, security apparatus, sanctions campaign and homeland system and how this had an impact on political conflict — directly and indirectly.

The commission has approached about 50 major employer associations, union federations, major corporations and non-governmental institutions and former anti-apartheid groupings to make submissions. Academics have also been asked to provide expert evidence.

It is in the process of meeting them directly and asking for written submissions prior to the hearing. Positive responses so far indicate co-operation will be widespread, which should make for a rewarding and interesting hearing. Only the Mineworkers Union is refusing to co-operate.

Once the submissions are in, the commission will narrow them down and decide who should give evidence and on what. Organisations will be given sufficient notice of specific evidence being submitted against them.

The choice of which major businesses to approach is subjective, based on their size and role in the economy and society. Representation will be at head office level, thus representing all the group's subsidiaries and interests. So far, Anglo American and Sanlam have agreed to make submissions.

Black business has been approached and has agreed to make a joint submission through the newly formed Black Business Council.

Indications are that the main union federations — Cosatu, Nactu, Fedal, PSA — will each make single contributions on behalf of all their affiliates.

Institutions such as the Development Bank and Land Bank have been approached. Individual academic expertise has also been assured so far from Stellenbosch economist Sampie Terreblanche, Wits economist Charles Simkins and the architect of SA's labour reforms of the late '70s, Nic Wiehahn.

In meetings with these groups it has been emphasised that the commission does not want to appear prescriptive and that each organisation may well have different ideas as to where it wants to focus its submission. The point is

that submissions should reflect each organisation's understanding of the role of business in the apartheid era. Criteria may change as they are received.

It is also emphasised that these hearings are not a witch hunt. Individual human rights abuses have been tabled at other hearings. The business hearing is not the forum for this.

The commission has been accused of being over-ambitious. Given the complex and controversial nature of issues expected to be highlighted, the exercise is certainly limited.

Doubts are also expressed about the level of debate and evidence the hearing will be able to generate. This depends on the parties who bring forward submissions. To this end it is clearly important that superficial statements, grandstanding and accusations be avoided. The more concrete the evidence around the apartheid institutions and structures, the more constructive the outcome will be.

Even with these difficulties and doubts, the hearing has potential value.

□ It can highlight the most obvious and harmful effects of the apartheid economy, attempt to understand the past conflicts, try to prevent a recurrence of human rights violations and point to the way forward.

There will probably never be such an opportunity to document the apartheid economy and its dynamic and changing power relations. Who benefited and lost out from apartheid? How did they benefit? What were the benefits?

□ The process involved in arriving at submissions will require soul-searching and discussion within organisations that itself could contribute to not only truth and reconciliation, but a better understanding of the apartheid economy and how it affected interest groups. It can perhaps even assist towards internal transformation of business organisations, and

□ The hearing will also have a political impact that could affect — hopefully more positively than negatively — our present and future economic relations.

□ Segal is a freelance journalist who has been seconded to the truth commission as a researcher to the business hearing.

BD 17/9/97

Media 'riddled with spies and informers'

Network controlled by police ^{ARG 17/9/97 (252)}

Johannesburg - About 40 journalists, two of them serving policemen, made up a network of agents and informers controlled by the police in 1989 and 1990, the Truth Commission's media hearing was told.

Head of the police covert strategic communications unit Vic McPherson told the hearing here yesterday his network included journalists working for some of South Africa's most influential publications and news agencies.

These included the Sunday Times, Pretoria News, Rapport, Beeld, The Citizen, The Star, BBC News, Reuter, Sapa, SABC TV and radio, Rooi Rose, Huisgenoot, Republican Press and Insig.

"Some of them still occupy high positions," said Superintendent McPherson.

Only two, Craig Kotze and John Horak, were full-time police officers.

Four had been paid agents, four had been used as informants occasionally, 10 were friends or contacts and 20 were journalists who were used without their knowledge.

**JOHN
YELD**



ON THE TRUTH COMMISSION

Superintendent McPherson, who headed the covert unit in 1989 and 1990, said the unit had since 1985 been part of the apartheid-government's National Management System which was controlled by the secretariat of the State Security Council

A presentation of secret projects was made annually to the state president for approval and confirmation of access to secret funds

While he headed the unit the presentation was to then president F W de Klerk and some members of his cabinet in December 1989.

The total budget for police secret projects in the 1989-90 financial year was R4,5-million, of which less than

R50 000 had been spent on the media

Responding to questions, Superintendent McPherson said Mr De Klerk would not have known the identities of the journalists nor the details of the projects.

Mr De Klerk had approved only the aims and objectives of the projects and had insisted that the main aim had to be propagating peace.

After February 1990, when Mr De Klerk made his watershed speech unbanning the liberation movements, media projects had continued but secret projects had been cut by more than half.

"A lot of people who had been working for us were getting scared and some had gone to the ANC and confessed," Superintendent McPherson said.

"We had to give an assurance to Mr De Klerk that these people (being paid with new secret funds) wouldn't go over as well and embarrass the government."

Superintendent McPherson is applying for amnesty for his role in blowing up the ANC offices in London.

Informers in media 'two-a-penny'

Johannesburg - Informers in the media were "two-a-penny" according to former police agent and journalist John Horak

Some of them were motivated by professional jealousy and getting rivals out of the way in the promotional stakes, he told the Truth Commission.

Mr Horak told the commission's media hearing here yesterday that he

had "not been very secret".

To laughter from the audience, he said. "Today more people on newspapers are working as agents and informers than there were for the old government." He claimed the ANC government had asked him to help set up its new secret service and had offered him deputy-ambassadorship in Moscow, but he had declined because of ill-health

We risked our lives to tell truth, say editors of 'alternative' press

Johannesburg - Many black journalists and political activists who produced "alternative" publications during the anti-apartheid struggle were prepared to risk their lives to tell the truth of what was happening in their communities.

This was testimony yesterday to the Truth Commission's media hearing by Rashid Serja, Moegsten Williams and Johnny Issel, representing those who were involved in producing publications such as *Saamstaan*, *Grassroots* and *South*.

They told the hearing media laws and restrictions had been designed by the apartheid government to allow a one-sided picture to emerge. "The mainstream newspapers opted for survival and profit and developed and perfected their own self-censorship code through the Newspaper Press Union.

"The alternative media, on the other hand, refused to compromise on telling the true story and many black journalists and political activists were prepared to take risks which were greater than commercial consideration - that of placing their lives at risk."

Factors influencing formation of the alternative media included the need to "fill the void" left by the virtual absence of news from townships and rural areas in the mainstream media and to counter depiction of the liberation struggle as a "terrorist/communist-inspired insurrection."

The state's response was completely out of proportion. Incidents included the shooting of two journalists, an arson attack which destroyed the *Grassroots* premises in central Cape Town, the banning and detention of those involved in the alternative media, and the banning of "countless" editions.

The front pages of the alternative media had been devoted almost entirely to human rights abuses. "It is therefore our submission that the state's actions against our publications could be considered a human rights violation in itself."

Responding to questions by the Truth Commission panel, Mr Issel, now a Western Cape government MP, said the alternative media provided a voice for the poor and oppressed and there were "very strongly" felt hopes and dreams "that the democratic government would help poor people have a media voice. "And I think that view still prevails," he added.

Mr Williams, editor of the *Cape Argus*, said it was important for Press Freedom that as many alternative voices as possible were heard. But because mainstream newspapers were now being aimed at very specific groups, it was "a bit naive" to expect them to cater for the interests of all those previously served by the alternative media.



Taking the stand: apartheid 'superspy' Craig Williamson at yesterday's media hearing

Stratcom head tells of forged leaks

Johannesburg - Documents purporting to come from the Frelimo government - implicating a cabinet minister in condemning seven heroes of the Mozambique liberation struggle to death - "were forged and sold to Scope magazine for R11 000".

This was one of the secret projects run by the SA Police's covert strategic communications unit, former unit head Vic McPherson told the Truth Commission's media hearing.

Superintendent McPherson said the information in the document was true and had been obtained from George de Costa, head of Mozambique's intelligence service, who defected to South Africa. But because Mr De Costa had no documentary proof, this had been forged and sold to Scope, which had published it in five issues. "He (the minister) lost his job, but was later re-appointed," Superintendent McPherson said.

Another project was leaking information about Operation Vula, an SA Communist Party plan to establish an armed underground structure in case negotiations failed. The information implicated the late Joe Slovo. "It was leaked to certain journalists and caused a great deal of trouble, and he (Mr Slovo) nearly lost his negotiating post."



I spy: former journalist Craig Kotze

I was an agent - newsmen

Johannesburg - A former crime reporter of *The Star*, Craig Kotze, has acknowledged publicly for the first time that he was a security police agent while working for the newspaper.

Mr Kotze joined *The Star* as a cadet reporter in 1984 and when he left in 1989 held the rank of captain in the police. He was appointed spokesman for the Ministry of Law and Order, serving ministers Adrian Vlok and Hennis Kriel, and as how communication adviser to police commissioner George Fiyaz, with the rank of director.

"I chose the SAP and SADF, not to defend apartheid, not to fight the liberation of oppressed black people per se, but simply to avert the slaughter of Rwanda, Liberia, Ethiopia, Chad, Sudan, Malabekland, Angola and Mozambique in South Africa."

Media was responsible for 'holocaust of truth', TRC told

(252)

Stow 18/9/97

BY ROBERT BRAND

Media during the apartheid years were responsible for a "holocaust of the truth", acclaimed poet and former journalist Don Mattera told the Truth and Reconciliation Commission yesterday

In a moving submission to the TRC's special hearing on the media, Mattera said mainstream newspapers under apartheid reflected the racist mindsets of their communities

Mattera detailed the harassment he suffered from police during his career as a journalist, and accused security police spy John Horak of being his chief tormentor. "If it had not been for President Nelson Mandela who brought reconciliation to this country, John Horak would be dead at my hands"

Horak testified on Tuesday about his work as a police spy at various newspapers in a ca-



Poet ... Don Mattera

reer spanning 27 years.

Mattera said Horak had "hounded and vilified" him through "whispering campaigns and dirty tricks" His house was raided countless times by police acting on information received from Horak, he said

Under apartheid, Mattera

said, most whites "lived in a state of Denmark, they lived and perpetuated that rot"

"The state of journalism cannot be divorced from the rotten state of South Africa as it pertained White people were given a status that was almost the status Hitler gave his people."

Blacks working in mainstream newspapers were expected to be subservient It was only through the rise of the Black Consciousness philosophy that black journalists were able to assert themselves, Mattera said "I saw the media as a terrain of the struggle I thought there was a need to start a journalistic organisation that would speak for the people, and so was born liberation journalism"

Mattera and others founded the Union of Black Journalists in the early 1970s to give expression to their philosophy of liberation journalism

"We had to exert all our strength to fight the enemy" Mattera said The racial "mindset" still permeated society and the media, Mattera said A "total catharsis, a purge" was needed to rid the media of

66
Blacks were expected to be subservient
99

racist attitudes, he said.

"If the media continues to select the white side of the news or the black side of the news, we are again entrenching the mindsets and racialising the country," he said

Academic slams Afrikaans press for 'violation of history'

SAW 18/9/97

(252)

The callous disregard of the Truth and Reconciliation Commission by the Afrikaans press could be equated with the murderous attitudes of the Vlakplaas killers, Potchefstroom media academic Professor Arri de Beer said yesterday

He made the remark after commissioner Dumisa Ntsebeza said he had been told journalists for Beeld had been threatened with dismissal if they testified before the commission

De Beer said the absence of the Afrikaans media from the hearings would be seen as a "violation of history".

He had been sickened and horrified by revelations of human-rights abuses by Vlakplaas operatives, which had made clear the evils of apartheid

De Beer said Afrikaans media and their intellectuals had operated inside a "miele driehoek" (maize triangle) mentality which was only found be-

tween Potchefstroom, Bloemfontein and Pretoria

He said the Afrikaans media had played an important part in building and maintaining the evil which was apartheid. He did not believe it was possible for former National Party cabinet ministers to claim they did not know about human-rights abuses

Now the chance was being offered via the commission to heal past transgressions, but it was not being taken up by

Afrikaners.

"If you look at this particular commission and its work, and one has to write about it in years to come, one of the main issues which will come to the fore is that Afrikaans people like myself did not know"

This was one of the main failings of the Afrikaans media - that it did not properly inform its readers about the evils being perpetrated in the country, said De Beer - Sapa

Mainstream press 'colluded with apartheid'

Editors 'waxed eloquent in stinging editorials condemning the system' but failed to match words with action, and used repressive legislation against black journalists who opposed the government, says media veteran Jon Qwelane

By Mike Masipa

South Africa's mainstream newspapers colluded with apartheid to oppress blacks and spread disinformation about the system, the TRC heard yesterday.

Detailing their personal experiences in the employ of mainstream liberal newspapers, leading black journalists Jon Qwelane, who is now editor-in-chief of Matibhe publishing, and Thami Mazwai, a director at the same company, said the mainstream media in the country were well placed to challenge the injustices of apartheid. Instead they chose to do otherwise.

They accused the country's main newspapers, including The Star, the Sunday Times and the now-defunct Rand Daily Mail, of using apartheid legislation against black journalists who fought the system.

Qwelane lambasted the editors

for concluding a pact with former state president PW Botha in agreeing that the country was in danger of a total communist onslaught in the 1980s. Shortly afterwards Botha declared a state of emergency which resulted in gross violations of human rights.

"I want to charge all the mainstream newspapers - English and Afrikaans - with collusion with apartheid and having a hand, directly or indirectly, in the subsequent murder of tens of thousands of black people by the apartheid army and police. I'm not off my rocker," Qwelane said.

He told the commission that by deciding not to publish stories that highlighted the political problem then and black people's struggle against apartheid, the mainstream newspapers denied the public a basic human right, the right to be informed.

Qwelane said the editors "often



Jon Qwelane... all guilty.

waxed eloquent in stinging editorials, condemning the apartheid system," but failed to match their words with action.

The newspapers also practised

apartheid in the workplace

"Black journalists were not given any training at all. Indeed everything that I know about journalism has been learnt by trial and error," Qwelane said.

"In very many cases the lack of training was often used as a convenient excuse to deny black journalists promotion on the newspapers on which they worked. It often depended on the goodwill of the particular editor to correct what was evidently wrong in denying blacks promotion."

Qwelane said black journalists were paid less than their white counterparts.

Both Qwelane and Mazwai cited cases in which editors hid behind the state apparatus to punish black journalists for defying apartheid.

Mazwai said that while working at the Rand Daily Mail, he was once made to forfeit his leave for the two days he had spent in police deten-

Star 18/9/97

(252)

tion after taking part in a march in 1978. Qwelane said The Star refused to pay him for three months after he had refused to register at the pass office, as required of black workers.

The collusion with apartheid went even further because facilities at these newspapers were also separated along racial lines, Qwelane said. Blacks could not share car-tees and toilets with their white colleagues. Black facilities left much to be desired, Qwelane said.

"Were these not human-rights violations?" he asked.

He acknowledged, however, that there were "periodic flashes of courage and brilliance (by mainstream newspapers) by exposing the gross injustices under which we lived, to the rest of the world. Here one has in mind the reportage on the inhuman conditions in South African prisons, the Info scandal, the unmasking of the CCB and the expose of Vlakplaas."

The Star in firing line at special TRC media hearing

Star 18/9/97

The Star came under attack yesterday at the Truth and Reconciliation Commission's special hearing on the media.

Independent Newspapers (formerly Argus Newspapers) admitted its publications had not done enough to fight apartheid - but added that it was doing its best to make up for past shortcomings.

"While there were many achievements in the old Argus, there were too many shortcomings, and we regret them," said chief executive Ivan Fallon at the hearing in Johannesburg.

"But, the company has changed dramatically (We) are now involved in a vigorous process of transformation."

► **Independent redressing wrongs of past**

Page 6

In other submissions:

■ New evidence was submitted to the Truth and Reconciliation Commission yesterday suggesting that police forensics chief Lothar Neethling manufactured poisons used to kill

Max du Preez, former editor of Vrye Weekblad, said the evidence showed Neethling had perjured himself in a defamation suit against Vrye Weekblad, which had to close down when the Appeal Court found in Neethling's favour.

► **State used defamation laws to silence critics**

Page 6

■ Poet and writer Don Mattera called for a "total catharsis" and for the media to speak for all South Africans.

► **Media responsible for 'holocaust of truth'**

Page 6

■ Sowetan night editor Mike Tlissong, who cut his journalism teeth in the '80s at The Star, spoke of the cost of "ignoring" the voice of black journalists

► **Black journalists 'must take rightful places'**

Page 6

■ Potchefstroom media academic Professor Arris de Beer said the "disregard" of the TRC by the Afrikaans press could be equated with the murderous attitudes of the Vlakplaas killers

► **Academic slams Afrikaans media**

Page 6

■ The Forum of Black Journalists said mainstream newspapers "openly took the side of apartheid" by maintaining separate amenities and opposing actions taken to fight apartheid. Veteran journalist Jon Qwelane, a former employee of The Star, accused the mainstream press of "active collusion with apartheid"

► **Mainstream 'colluded with apartheid'**

Page 7

■ Cyril Ramaphosa said Times Media Limited was committed to transforming itself. He said criticisms of the way TML's newspapers had produced news were true, particularly coverage of news relating to black people. This, and people's mindsets, had to change

Ramaphosa also gave the assurance that black empowerment at boardroom level would be accompanied by empowerment in the company's newsrooms

► **TML will transform itself - Ramaphosa**

Page 7

Times Media will 'transform itself', says Cyril Ramaphosa

Nov 18/9/97 (252)

Media group Times Media Limited was committed to transforming itself, Cyril Ramaphosa told the Truth and Reconciliation Commission yesterday

Ramaphosa, who headed TML's submission to the TRC hearing on the role of the media during apartheid, said English newspapers had played "in the main" a courageous role in unearthing the evils of apartheid, but more had to be done.

He said criticisms of the way TML's newspapers had produced news were true, particularly coverage of news relating to black people. This, and people's mindsets, had to change.

He gave the assurance that issues raised in the hearings had not "gone in one ear and out the other"

His editors were attending the hearings and were paying particular attention to the criticisms and were "internalising" them, he said

Ramaphosa also gave the assurance that black empowerment at boardroom level would be accompanied by empowerment in the company's newsrooms

"It's early days yet, but major steps are going to be taken to transform institutions and fortunately we have taken it up as a strategic objective to ensure we have a fair, true representa-

Denial that Rand Daily Mail closure was politically motivated

tion of the country's demographics in the make-up of our company," he said

TML chief operating officer Lawrence Clarke denied that the 1985 closure of the Rand Daily Mail had been politically motivated

Although he was not party to the decision, he said he had spoken to directors who were involved and they were adamant the decision was a commercial one because not enough advertising revenue was coming in

But former editor Raymond Louw later said he believed the closure was politically motivated

He said the Mail's advertising executives had made only perfunctory attempts to get advertising - this was told to him by a senior advertising source. Louw said the Mail's overdraft had increased after its closure.

Clarke said TML's predecessor, South African Associated Newspapers, had been in dire financial straits in 1985 and he was convinced that the group would have collapsed if the Mail had not been closed

He said SAAN and TML had hired and fired more editors than any other group, but they had always been replaced by editors who believed in the same ideals as their predecessors

He was unable to explain how a per-



Submission ... Cyril Ramaphosa .

son like John Horak, who was widely suspected of being a police spy, could have been promoted to a position where he was able to easily monitor, via the company's computers, the output of any journalist.

He acknowledged the concept was "horrifying"

Horak told the hearing on Tuesday he had been a police spy and claimed many senior editors knew of his work but did not take any action against him during the apartheid era

He singled out former Sunday Times editor Tertius Myburgh as one of the editors who had knowingly cooperated with him as an informer

Louw said he had been suspicious of Horak but without evidence he could not do anything

"I was very wary of him from there on," he said.

Louw said the Mail had been concerned about bugging, especially after a 1965 exposé of inhumane treatment in South African prisons, and he had often resorted to having important conversations in passages or writing notes to his staff.

His successor Allister Sparks, who now heads the SA Broadcasting Corporation's television news department, had discovered after the Muldergate scandal that his secretary was a police spy

Louw said he had not attempted a spy-hunt in the newsroom as it would have demoralised his staff. Instead he only discussed sensitive stories with a few trusted staff

Ramaphosa said the group's newspapers could no longer afford to cater for the needs of only one section of readership, but rather had to articulate the views and experiences of all South Africans

Referring to liberation poet and former journalist Don Mattera's earlier call for a fund to be set up to train journalists in a national journalism school, he said it was an issue which TML could address, even if the people emerging from it were the company's competitors - Sapa

State used defamation laws to silence critics

(252) (248) Star 18/9/97
BY ROBERT BRAND

New evidence was submitted to the Truth and Reconciliation Commission yesterday suggesting that former police forensics chief General Lothar Neethling had manufactured poisons to kill activists.

Neethling sued the Afrikaans weekly Vrye Weekblad in 1992 for alleging that he had supplied chemicals used by police, to drug activists who were later murdered. He won the defamation suit on appeal, burdening Vrye Weekblad with massive legal costs and leading to the closure of the newspaper.

Former Vrye Weekblad editor Max du Preez, now a television journalist, told the TRC's media hearing yesterday new proof had emerged that showed that Neethling had lied to the court during the defamation battle.

Du Preez also submitted evidence contradicting a claim by the former government that Anton Lubowski, the Swapo activist who was murdered in Namibia in 1989, had been an agent of the South African military.

Du Preez said the state, recognising the political risk to itself in closing down Vrye Weekblad, had resorted to the courts in an attempt to muzzle the newspaper.

Du Preez submitted an affidavit by a former state prosecutor, Johan van der Heever, in which Van der Heever alleges Neethling had told him about poison developed in the police forensics laboratory.

Van der Heever, who had used Neethling as an expert witness in a trial, alleges that the forensics chief had bragged to him about a poison developed in his laboratory which could induce a heart attack and

could not be traced in post-mortem examinations.

"Neethling had testified under oath ... that nothing like this ever happened in his laboratory," Du Preez said. "Vrye Weekblad was closed because of (his) perjury."

"Neethling did in fact secretly prepare different kinds of poisons with the exclusive purpose of killing opponents of the apartheid government," Du Preez said.

Turning to Lubowski, Du Preez said a statement by former defence minister Magnus Malan that the Swapo activist had been an agent for the South African military was "a lie".

“
**Neethling 'did
make poisons
to kill govt
opponents'**
”

He said Rich Verster, the former South African military agent now standing trial in the UK for drug smuggling, was prepared to testify that he was sent to Namibia in 1989 to recruit Lubowski.

On the night of Lubowski's assassination, Verster was ordered to return to South Africa immediately.

Du Preez said Military Intelligence later forged papers to prove their claim that Lubowski was their agent.

Lubowski was gunned down by suspected South African agents outside his Windhoek home. The SA government denied involvement.

'Black journalists must take up their rightful places on papers'

(252)
The battle for the heart of South Africa's media industry had moved beyond the black ownership of newspaper houses to true black control in the newsrooms, the Truth and Reconciliation Commission heard yesterday.

Black journalists expressed their anger and humiliation at the treatment of news and of black journalists by white-owned newspapers during the apartheid era.

Forum of Black Journalists executive members Abbey Makoe and Mōndli Makhanya, who started their journalism careers in the 1990s, outlined their organisation's aim of promoting the training and advancement of black journalists.

Sowetan night editor Mike Tissong, who cut his journalism teeth in the eighties, outlined the cost of ignoring the voice of black journalists at that time. He started his career as a cub reporter at The Star.

Tissong described how a young white journalist who was given the opportunity to sit on the newsdesk to check copy "acted as she felt against staff who were not white". Tissong said although his stories were used as he had written them, his byline was removed.

"And there was no recourse for the black staffer who was subjected to this offensive treatment," said Tissong.

Tissong said there was also a tendency among senior white journalists to disbelieve stories filed by black staff.

He cited as an example the incident in Duduza on the East Rand when a number of young activists blew themselves up after trying to use hand-grenades that were booby-trapped.

"Rich Mkhondo (a reporter on The Star) and I received calls one morning that several youngsters in Duduza township had died in explosions. Rich set off for the township while I stayed in the office to pull the story together. Our contacts were adamant that a



Mike Tissong ... accusations.

security policeman had infiltrated the group and given them grenades which were set to explode as soon as the pins were pulled. He convinced the group that he was a trained Umkhonto we Sizwe (the ANC's armed wing) guerrilla who needed them to carry out a mission."

He said some of the youngsters were killed and others maimed when they tried to attack homes of councillors.

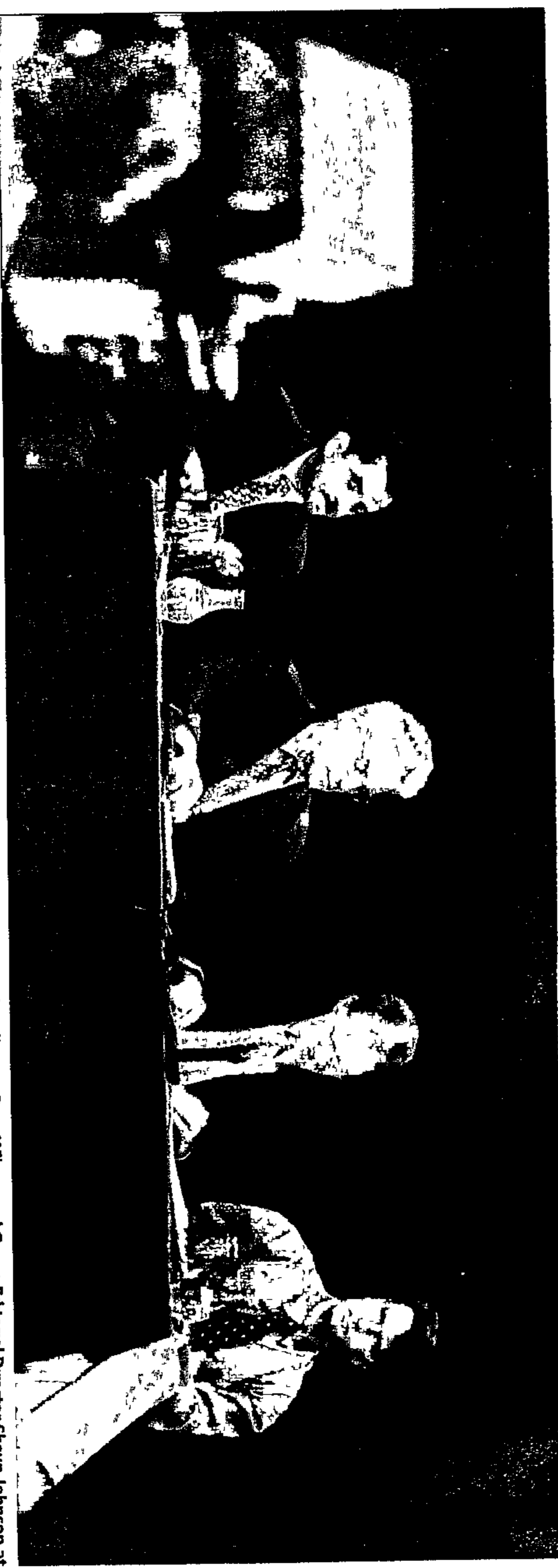
Tissong said when he filed the story he was met with disbelief at the angle he had taken, and a white reporter was asked to get the police version of what happened.

"The whole story was made into a watered down version of what happened that night," he said.

Despite this, Tissong said, police laid charges over the report.

"I went to court alone to face charges in terms of an Act in which it was an offense to tell lies about the police. After several trips to court, my attorney and I were informed that the police were dropping the case."

About 10 years later, Vlakplaas police operative Joe Mamasela boasted on television that he had set up the operation to have youngsters killed and maimed, Tissong said. — Sapa and Staff Reporter



Telling it like it is . . . Cape Argus editor Moegsien Williams, Group CEO Ivan Fallon, Independent Newspapers Cape managing director Rory Wilson and Group Editorial Director Shaun Johnson at a special media hearing of the TRC in Johannesburg yesterday.

Independent group redressing wrongs of past

Newspapers in Argus group did not do nearly enough to fight apartheid, says chief executive Ivan Fallon

By Robert Brand

Newspapers of the Argus group (now Independent Newspapers) did not do nearly enough to fight apartheid, both nationally and in their own newsrooms, executives of the company told the Truth and Reconciliation Commission yesterday.

But the company had recognised its shortcomings and had embarked on a "vigorous" process of transformation to overcome them, chief executive Ivan Fallon told the TRC's special hearing on the media

The company's submission was delivered by Fallon, Independent Newspapers Cape managing director Rory Wilson, editorial director Shaun Johnson and Cape Argus editor Moegsien Williams.

"While there were many achievements at the old Argus, there were too many shortcomings. We make no bones about that, and we regret them deeply," Fallon said.

"But the company has changed dramatically (We) are now involved in a vigorous process of transformation."

Fallon rejected a statement made earlier during the hearing by Thami Mazwai, head of Mafohe Publishing and a former employee of Argus Newspapers, that the "apartheid mindset" lived on at Independent Newspapers.

"Whatever has been said about the old Argus Newspapers, Dr Tony O'Reilly and Independent Newspapers (which bought the company in 1994) have been from the outset significant friends of the new South Africa."

Wilson detailed the company's shortcomings and said, although many editors and journalists had taken a "courageous stance" in opposing apartheid, more should have been done.

"We believe the mood of the country is now rightly focused on injustices of the past, and on remedial steps.

"Our company made insufficient efforts to overcome the obstacles of apartheid laws. Our staffs were generally too white, and blacks were only introduced on any major scale during the 1970s.

"We made insufficient attempts to generate news from disadvantaged communities, and this led to a distortion of the news. The alternative press showed up our company for having lost touch with the oppressed masses."

Wilson said Independent Newspapers' new management was doing "a great deal" to overcome historical imbalances through training, a "fast track" programme for previously disadvantaged staff, an executive development programme and a "comprehensive affirmative action programme" negotiated with all its unions.

"One of the major focuses of our daily business has to do with the transformation of society," Wilson said.

"But we need to say while we're on the right track, we still have a long way to go. We regard our company as one of the great institutions of South Africa. We have a very important role to play in the future of the country, and we want to make a contribution in all areas of the new South Africa."

SAW 18/9/97

(292)



GOING TO COURT: Zackie Achmat and Clayton Wakeford of the National Coalition for Gay and Lesbian Equality, which is taking its application to decriminalise consensual homosexual sex to the Constitutional Court

PICTURE THEMINKOSI DWAYISA

Omar 'leaves gays in the lurch'

(252) CT 18/9/97

ELISSA GOOTMAN

GAY and human rights activists say they are shocked and disappointed that they must proceed with their battle to decriminalise gay sex without the support of Justice Minister Mr Dullah Omar

Last month the National Coalition for Gay and Lesbian Equality, supported by the Human Rights Commission, filed an application in the Constitutional Court challenging the constitutional basis of several statutes and common laws which criminalise consensual homosexual acts and sodomy. The court is scheduled to hear the matter on October 24

In its application, the coalition claimed these laws were "in direct violation" of sec-

tions of the Constitution protecting human dignity, privacy, freedom of association and control over one's body

The laws also "place a criminal stigma on all gay people" which "gives official sanction to the stigma and irrational prejudice of society"

The coalition said the laws also prejudiced gays in situations where their obedience to the law was in question, such as in job applications and custody disputes

But Omar has opposed the application. Spokesman Mr Paul Setsetse said the Justice Minister "is not opposed to gays and lesbians practising their constitutional rights, but has opposed the application to highlight some of the legal implications that may arise"

Setsetse refused to expand on these implications, but Department of Justice officials, including deputy director Mr Deon Rudman, have previously indicated their concern with safeguarding children's rights and "striking a balance between the public and the gay community"

Mr Zackie Achmat, national convener of the coalition, said he found such comments appalling "We find it difficult to understand this (distinction between gays and the public) We say 'We are the public' We work, pay taxes, go to school

"We resent the implication that same-sex relations between consenting adults can be construed as child abuse. It is especially insulting coming from a senior official in government," Achmat said

Lack of access to

archives 'frustrating'

Pile Molebeledi

(2552) BD 18/9/97

The truth commission's work has been frustrated by its inability to gain access to military archives. Taking the defence force's involvement in implementing domestic order in black townships and stabilising the region, commission sources said the nodal point — a bold statement — ordinate communication between the military and the military — had ailed to facilitate access to archives. The nodal point headed by Col Slabbert and an aide who he believed to be a senior defence force officer, Gen C. Vorster, said. The commission has reportedly had a full cooperation from other state departments. In a meeting held in August between the government, military and commission officials, it was agreed to gain access to the archives, but the military has not responded positively. It is believed that the Defence Minister Ron de Klerk is asked to get to a plan within a few weeks, but the commission has reportedly heard nothing. However, commission spokesman Christer de la Harpe said that a number of provinces had laid down to get them. "We have a very reason why that will gain access, very, very, on a nodal point secretary (a John De Meester) that they had laid down for a number of years to clarify military information. If they allow this, all the information that they have. The defence force had to take into cognisance the defence and the security of information. It is regarding the security of information only acts as a nodal point. It cannot make or break policy."

Barnard to apply for amnesty

on three charges in indictment

Stephané Bothma

(2552) BD 18/9/97

PRETORIA — Former policeman and Civil Co-operation Bureau (CCB) operative Ferdi Barnard will apply for amnesty on three of the 24 charges detailed in his indictment.

However, lawyers representing Barnard, now charged with the May 1989 murder of Wits university anthropologist David Webster and the attempted murder of Justice Minister Dullah Omar, would not say which crimes he would confess before the truth commission.

Barnard appeared in the Pretoria Regional Court yesterday where deputy Transvaal attorney-general Anton Ackermann SC said he would stand trial in the Pretoria High Court on February 2 next year.

Barnard gave no indication that he would launch a bail application. He will remain in custody at the Moot police station in Pretoria until his trial.

Neither the 1990 Harnis commission nor the inquest into Webster's death could find concrete evidence of Barnard's complicity. The 44-page indictment served on Barnard chronicles a five-year journey from alleged state assassin to common criminal.

In 1988, after being released from prison for murdering two drug dealers, he was recruited into the SA Defence

Force's shadowy CCB. As a CCB agent in 1989, he allegedly killed Webster with a shotgun fired from a car driven by fellow agent Calla Botha, outside Webster's Troyeville house on May 1.

According to the indictment, Webster — an activist with "a strong interest in alleged SADF irregularities" — had been under surveillance by Barnard for some time.

Barnard also allegedly tried to kill Omar between April and October. His alleged co-conspirators included Botha, Slang van Zyl, Joe Verster, Sjaal Burger, Christo Brits and Peaches Gordon, a Western Cape gangster who later died in mysterious circumstances. The document claims that a decision to "eliminate" Omar was made and Barnard was ordered to find two hired killers who would be supplied with a Makarov pistol and a silencer.

However, on an unknown date, Barnard himself went to Omar's house with a handgun, intending to kill him, the state alleges, but aborted the plan due to "unforeseen circumstances," the document claims.

Barnard is also alleged to have conspired with other CCB members in May or June to kill Eastern Cape activist Bruce White.

During 1992 and 1993, Barnard allegedly turned his attention to lucrative "sting" operations.

TRUTH COMMISSION

Press groups slated at hearings

Kevin O'Grady

MAJOR SA newspaper groups were yesterday accused at a truth commission hearing in Johannesburg of colluding with the apartheid government to suppress information and of subjecting their black employees to racist treatment

Several senior journalists who started their careers at newspapers owned by the former Argus Newspapers and SA Associated Newspapers (SAAN) — now Independent Newspapers and Times Media Limited (TML) — accused the groups of violating their, and the public's, human rights.

Enterprise Magazine editor-in-chief Thami Mazwai, Mafube Publishing editor-in-chief John Qwelane and Sowetan night editor Mike Tissong told the commission of their poor treatment by their employers

Tissong said black reporters were denied promotions and that "the long-term effect of starting careers at newspapers like The Star was that our careers were held back"

Qwelane said black journalists were denied training and promotion and as late as 1976, canteen and toilet facilities at the SAAN building, which housed the Rand Daily Mail, the Sunday Express and The Sunday Times, were segregated.

He said the Newspaper Press Union, a grouping of the major newspaper owners, signed a "pact" with then President PW Botha in the 1980s, giving him legitimacy to "unleash the (state of) emergency and a reign of unprecedented terror" on SA.

"Did the media owners, by their endorsement of Botha's madness, not help to delay the day of our liberation? Can we not correctly say the blood of those who were murdered by Botha's police and soldiers is on the hands of the media owners? I say it is," Qwelane said

Tissong, also Black Editors Forum general secretary, said little had changed in the two groups "It's not enough for Johnnic to be in effective control of TML and for TML to be run the same way it was 15 years ago. There should not only be capital control of the media houses, but operational control."

In a TML submission, chairman Cyril Ramaphosa, chief operating officer Lawrence Clark and deputy Neil Jacobsohn defended reporting by SAAN/TML newspapers during the apartheid era

Clark said they had "a proud record of keeping the SA public informed and of defending human rights" Although there were errors of judgment, the "contribution to change far outweighs any errors"

Ramaphosa agreed that "in the main, English newspapers played a very courageous role". He welcomed criticism of the group which "gives us the opportunity to have a much closer . . . look at ourselves".

Referring to allegations of racism in SAAN newsrooms, Jacobsohn said TML "sincerely regrets any such indignities that were imposed" but did not believe they were the result of official company policy.

In an Independent submission, CE Ivan Fallon denied allegations by Mazwai that an "apartheid mindset" still existed in the company. Western Cape MD Rory Wilson said the firm acknowledged several shortcomings during apartheid, including that it was "strongly driven by commercial motives which blunted the cutting edge in exposing violations"

A long-standing dispute over the reasons for the 1985 closure of SAAN's Rand Daily Mail also resurfaced at yesterday's hearing. Clark said the Mail was closed for purely commercial reasons "If (it) had remained open SAAN would have collapsed," he said.

In his submission, former Mail editor Raymond Louw was adamant the newspaper was closed because of its unpopularity with government and that SAAN's overdraft "increased fourfold" as a result



CHRIS ADLAM, THE STAR

On the line: Cape Argus editor Moegsten Williams, Independent Newspapers chief executive officer Ivan Fallon, Independent Newspapers Cape managing director Rory Wilson and Independent Newspapers editorial director Shaun Johnson at yesterday's hearing

Journalists 'threatened'

Johannesburg - Journalists from the Afrikaans daily newspaper Beeld who expressed an interest in testifying at the Truth Commission's media hearing were allegedly threatened with dismissal if they did so.

Truth commissioner Dumisa Ntsebeza told the hearing that if the allegation was correct, "it is a great pity".

Beeld is published by the Nasionale Pers group, which declined a formal invitation from the commission to make a submission. There were also no submissions from other sectors of the mainstream Afrikaans media.

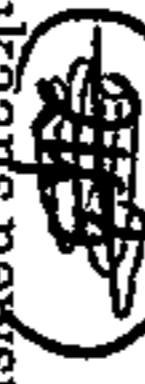
Arri de Beer, a former journalist and now media lecturer and researcher at Potchefstroom University, testified in his personal capacity.

He said few things had made such a dramatic impact on his life and consciousness as testimony to the Truth Commission about atrocities at Vlakplaas, headquarters of the security police "death squads".

Professor De Beer said that in his work as a journalist he had at times kept quiet when he should have spoken out "volubly".

Police general 'lied about poisoned beer'

AKU 18/9/97



(252)

Johannesburg - Former head of the police forensics laboratory Lothar Neethling lied when he denied preparing poison to kill opponents of the apartheid government, journalist and television presenter Max du Preez told the Truth Commission here.

Mr Du Preez said there was "absolute proof" from several quarters that General Neethling had indeed lied to the Supreme Court and

he handed the commission a copy of an affidavit from a former Pretoria regional court magistrate.

He said other proof included a sworn affidavit in the possession of the Pretoria Attorney-General by Vlakplaas policeman Steve Bosch describing how he had fetched poisoned bottles of beer from General Neethling.

Mr Du Preez was editor of Vrye Weekblad, an "alternative"

Afrikaans newspaper which started in November 1988 and which was forced to close in February 1994 after losing an expensive defamation case to General Neethling.

Appealing to the Truth Commission to help "bring this man to justice", Mr Du Preez said there was absolute proof that General Neethling had lied to the Supreme Court and that Vrye Weekblad was forced to close because of the perjury.

AK

'No bones' made over Argus shortcomings

Commercial interests 'so strong'

Johannesburg - Many shortcomings in the activities of the former Argus company from the 1960s until the early 1990s are "deeply regretted", says Independent Newspapers chief executive officer Ivan Fallon.

Independent Newspapers acquired the Argus group in 1993. Presenting the company's submission to the Truth Commission's media hearings here yesterday, Mr Fallon acknowledged the shortcomings of the Argus company.

"We make no bones about these. We regret them deeply," he said. "But the company has changed dramatically, and I reject very strongly (the claim) that an apartheid mindset exists in this company today."

Rory Wilson, managing-director of Independent Newspapers Cape, said Argus had been "a rather staid,

**JOHN
YELD**



ON THE TRUTH COMMISSION

cautious and slow-moving newspaper company". It had been so strongly driven by commercial motives that it "often blunted its cutting edge in exposing the wrongs of apartheid and human rights violations"

Also, it had made insufficient effort to overcome obstacles to the free access of news, imposed by apartheid laws. However, Argus had also operated in "a hostile legal and

ARG 18/9/97

political context".

"Journalists were constantly harassed, threatened, abused and intimidated for doing their duty as they sought simultaneously to serve the interests of a largely white readership and a repressed, restless black majority."

The new leadership of Independent had devoted much time and effort to ensuring that the imbalances of the past were redressed and that the shortcomings of the old Argus company did not persist.

"A great deal is being done at all levels in terms of training, education and upgrading of staff from disadvantaged backgrounds."

Responding to a question, Mr Fallon said the lack of women editors in the company was of concern to him, and the executive would be working "very hard" to rectify this.

(213)
(252)

There was collusion, say black journalists

Johannesburg - The newspaper industry has come under fierce criticism from black journalists for colluding with the apartheid government and practising petty apartheid in newsrooms.

The journalists also accused the mainstream newspaper companies of denying them the same training and promotional opportunities as their white counterparts, and some charged that discriminatory practices were continuing in spite of recent changes in newspaper ownership.

Jon Qwelane accused the former owners of mainstream newspapers of "having blood on their hands".

The journalists, all members of the Forum of Black Journalists, were testifying yesterday at the Truth Commission's media hearing.

The forum is a pressure group with the main aim of enhancing training and professional advancement for black journalists.

In its official submission, by Mondli Makhanya and Abbey Makoe, the forum accused the English and Afrikaans press, and the SABC, of col-

luding with successive National Party governments to perpetuate apartheid.

"This they did by actively enforcing discriminatory laws in their own institutions, using terminology and language that was ideologically in congruence with the National Party governments, and in conflict with the forces fighting for the eradication of apartheid.

"They failed to inform the populace about the evil that was going on around them and victimised those in their employ who were actively opposing apartheid."

Mr Qwelane, editor-in-chief of Mafube Publishing, told the hearing that all the mainstream newspapers - "every single one of them" - had colluded with the apartheid government.

"I want to charge them with having a hand, directly or indirectly, in the subsequent murder of tens of thousands of black people by the apartheid army and police. I'm not off my rocker."

He said major newspaper owners, members of the Newspaper Press Union, and had signed a pact with former president P W Botha.

SA was 'rotten' - newsman

Johannesburg - South Africa under the apartheid government was like Hamlet's Denmark - rotten.

This was the assessment of Don Mattera, a leading poet and a member of the Forum of Black Journalists.

In an emotionally charged presentation to the Truth Commission's media hearing yesterday, Mr Mattera accused white South Africans of thriving under apartheid.

"They lived in the state of Denmark, they shared and perpetuated that rot. The state of journalism cannot be divorced from the rotten state of South Africa as it pertained."

Mr Mattera, who was banned and subjected to repeated raids on his home by security police, was particularly scathing about his former newsroom

colleague John Horak, who testified earlier about his role as a police spy on newspapers.

Accusing Mr Horak of "whispering campaigns" against several journalists, including himself, Mr Mattera said that had it not been for President Mandela and his campaign for reconciliation, "John Horak would have been dead by my hand".

There had to be a "total catharsis and purge" of South African society and the media had to be "reformed" until it represented the country's demography, he said.

The Government should establish a "media diversity fund" to help finance new publications to promote a "diversity of views" among South Africans.



Scathing: Don Mattera

...the trial began...
...leader Salaparuta...
...leader Salaparuta...
...leader Salaparuta...

CAPE ARGUS, THURSDAY, SEPTEMBER 18, 1997

Omar in shock move on gay rights

Homosexuals gear up for petitions and protest action



Speaking out: Zackie Achmat, Clayton Wakeford and Fiona Brown

JERMAINE CRAIG
STAFF REPORTER

(252)

Gays have reacted with "surprise and disappointment" to Justice Minister Dullah Omar's decision to oppose their court application to scrap laws which criminalise same-gender sex.

Kevan Botha, legal adviser to the National Coalition for Gay and Lesbian Equality, told a media conference in Johannesburg yesterday the coalition was dumfounded by Mr Omar's "unwarranted" opposition.

At a media conference in Cape Town, the coalition's Zackie Achmat said they were fighting for national recognition of a recent Cape High Court ruling that it was unconstitutional for sodomy between consenting adults to be an offence.

Mr Achmat also highlighted the coalition's opposition to other laws still in place which he said were not in line with the new constitution.

ARG 18/9/97

These were the common law crimes of sodomy which criminalised sexual acts between consenting men, the Unnatural Sexual Acts Act which criminalised acts such as oral sex, and a section of the Sexual Offences Act. Sodomy is a Schedule 1 offence in terms of the Criminal Procedure Act and a schedule to the Security Officers Act.

In terms of the law, men suspected of the crime of sodomy can be arrested, with force, by members of the public and postal articles sent to sodomy suspects can legally be intercepted.

The Human Rights Commission and the coalition, representing 70 organisations for gay, lesbian and bisexual South Africans, applied in the Johannesburg High Court last month for the scrapping of the laws, naming Mr Omar, Safety and Security Minister Sydney Mufamadi and the Witwatersrand Attorney-General as respondents.

"We are very disappointed (with

Mr Omar's opposition) We think it is a retreat on the Government's commitment to equality for gays and lesbians. The laws are in conflict with our constitution and we oppose them" Mr Achmat said.

The coalition is to circulate petitions and ask its members to picket the Department of Justice.

A spokesman for Mr Omar said the minister recognised the constitutional rights of gays and lesbians but believed there were legal implications which needed to be debated.

"The Minister is fully aware that the rights of gays and lesbians are guaranteed in terms of our new constitution. He is not opposed to gays and lesbians practising their constitutional rights but wants the court to clear up some of the implications."

One of the arguments would be to determine the age of consent. Mr Omar has until October 6 to file an affidavit giving his reasons for opposing the coalition's application.

Wham! Liberal press exposed

Newsrooms manipulated reports to suit the state

By Claudia Braude

PRESENTING the National Party's first submission to the TRC in August 1996, then leader of the NP FW de Klerk admitted approving, in principle, unconventional information gathering and disinformation actions

"These matters are not the subject matter of the Commission's term of reference, and I will therefore refrain from dealing with them in detail," he said

The TRC disagrees Unpacking the effects of dirty tricks and censorship is central to its brief

Testimonies heard this week at its media hearings fill in some omissions They reveal covert disinformation structures which produced and disseminated apartheid's lies This includes the manipulation in newsrooms by police agents John Horak and Craig Kotze

At the TRC, Kotze, former spokesman for apartheid ministers Adnaan Vlok and Hernus Kriel and now communications adviser to Police Commissioner George Fivaz, admitted working as an undercover intelligence agent of the Security Branch

For impartiality

He has no regret As crime and military reporter on *The Star* in the name of impartiality, he presented the apartheid government's lies It was my mission to balance what I came to perceive as an inherent media bias in the English liberal press against the police

The Star replaced first-hand accounts of events with police cover ups, including an article on booby-trapped hand grenades in Duduza by journalists Mike Tissong and Rich Mkhondo

The booby-trapping of the grenades we now know, was planned at Vlakplaas by Eugene de Kock, Joe Mamasela and (according to Mamasela) his Askari colleague Daniel Nkala to destroy student opposition

This was deliberately concealed within *The Star*'s newsroom

"I see myself as a soldier-policeman, using journalistic skills to achieve that process", Kotze told the TRC

Testifying a day later, TV producer Max du Preez accused Kotze of lying to the TRC "He said he only operated as a journalist He knew everything about Vlakplaas He led the campaign to discredit (Dirk) Coetzee (who revealed the existence of Vlakplaas)"

These disinformation activities not only created a climate conducive to human rights abuses as De Klerk told the Commission As in Nazi Germany and Rwanda, where they constituted crimes against humanity, they were an integral part of military activities

Kotze follows NP tradition, beginning with the Pro-Nazi Afrikaner Broederbond and SABC head Piet Meyer of combining military and media activities "In defence of the country only 20 percent can be achieved by military preparedness the other 80 percent depends on spiritual preparedness," said Meyer

At the TRC this week, Professor Sampie Terreblanche traced Meyer's influence on NP policy

The Broederbond sent Meyer to Germany in 1934 He mixed with Nazis including Rudolf Hess, Hitler's deputy Simultaneously, Erik Louw was paid by Goebbels, Hitler's propagandist to produce Afrikaans anti British and anti-Semitic propaganda for broadcasting in



Cyril Ramaphosa, National Union of Mineworkers general secretary in the apartheid era and now TML media boss, pledges to uphold honourable and sound media practices in the new SA With him is Lawrence Clark, TML executive

South Africa

Louw, Meyer and the Broederbond learnt Nazism's control of information Meyer used the SABC to spread compliance with separate development and was praised for "serving in the frontline, at the SABC" by the Broederbond

Then SABC director-general Gideon Roos' commitment to impartiality and refusal to allow SABC to become the NP's propaganda machine led to his resignation in 1961

Replacing him, Meyer redefined "impartiality"

He broadcast pro-NP propaganda to counter the lack of sympathy for apartheid in the English press

Relying on Meyer's logic, the NP, in the run-up to the 1999 elections tries to neutralise their responsibility for apartheid by accusing the TRC of not being impartial

Like the NP, Kotze accuses the ANC of human rights abuses as grave as those committed by apartheid forces

He accuses opposition journalists of "suppressing information flow to the same, if not greater extent, than the state

Kotze misses the point introducing the agendas of the forcibly silenced majority isn't comparable to activities of the state-funded repressive propaganda machine

Military-media activities became increasingly sophisticated In 1972 PW Botha established the State Security Council (SSC) and the National Security Management System (NSMS) which implemented Botha's "total strategy" to destroy opposition to apartheid

Strategic Communications Branch (Stratcom) was the NSMS branch specialising in covert propaganda

Sympathetic journalists

Intelligence agent Craig Williamson, who appeared at the TRC, was partly responsible for Stratcom's application of Meyer's propaganda policies through WHAM ("Winning Hearts and Minds"), designed, says Horak, to "give the government the space to do what it wants"

Stratcom commander Vic McPherson told the TRC he recruited sympathetic journalists to undermine support for liberation organisations, including by uncovering corruption in their ranks

Questioned by the TRC, McPherson admitted he had two official meetings with Fred Bridgland author of *Katza's Journey* the recent book on Winnie Madikizela Mandela

Horak and McPherson told the TRC many of their spies including senior editors still hold positions in the media No

names were publicly mentioned, but the TRC has a list.

Williamson showed the TRC an apartheid propaganda video It included the image incessantly used to justify state repression, that of Maki Skosana being necklaced

Is it possible that her death was instigated by Vlakplaas Stratcom intelligence operatives Mamasela or Nkala to produce propaganda footage as part of the war to win white and Western compliance with apartheid's brutal rule?

Links exist Skosana was allegedly romantically connected to Mamasela, allegedly helping him gain access to his Duduza hand-grenade victims

Was hers a convenient death "implemented to destroy a witness of Vlakplaas' activities and, by having cameras at the scene, to create propaganda footage to win civil compliance?"

Meyer's voice

Meyer was echoed in 1989 by Lieutenant-General Charles Lloyd then secretary of De Klerk's SSC "You can talk to any military man and he will tell you that 80 percent of the actions that you must perform in a counter-revolutionary war are non-military and only 20 percent will be security force activities"

In 1990, NSMS changed to the National Co-ordinating Mechanism (NCM) The NCM continued to co-ordinate Stratcom operations, on which De Klerk was briefed

He admits giving his approval to these

Stratcom was officially disbanded in 1991 But, according to former security policeman Gary Pollack "Stratcom never shut down Before, we used to fill out forms about what we were doing now we couldn't"

Thousands of people were killed and injured between this period and democratic elections The TRC's brief to uncover the truth includes making recommendations to ensure apartheid's covertly orchestrated travesties pose no further threat to national stability

Focusing on the media raises the difficulties of the politics of reconciliation Faith in our media is essential to the development of democratic culture It demands public confidence that covert structures and their agents are rolled up

The TRC should recommend the establishment of a media commission to examine these complex and crucial parts of our history, and their possible continuities in the current media

(Claudia Braude is a writer and cultural critic)

Tales from the total onslaught

MTG 19-25/9/97 (252)

The truth commission hearings into the SABC shed little light on the means and methods of its apartheid years, writes **Ferial Haffajee**

There were no tears. There should have been. This week's Truth and Reconciliation Commission hearing into the SABC was a tragic affair. Tragic in the revelation of systematic and sanctioned brainwashing, sad in what it failed to reveal.

It didn't call a representative range of people responsible for outlining the propaganda machine or consider the way in which the legacy of the SABC continues to impact on the broadcaster.

The hearing was also tragic-comic in parts.

Producer Bheki Khahle had the audience in giggles with a story about a (white) senior who cut a news broadcast that was filmed in front of an Anchor Yeast banner because the first three letters were ANCI. Or Sampie Terblanche's tale about how a film was hauled off the schedule because PW Botha's late wife, Elize, saw the advertisement for the film *Darryl from Russia* and snatched to her husband, who ordered its withdrawal because "it mentioned Russia".

In the way of many hearings, it was gratifying to see the once mighty humbled by public scrutiny. But the hearing was only a small bite of a much bigger apple. Time dictated that no former minister of information was present, nor a former SABC director general, nor a chair of the board.

Instead Louis Raubenheimer played chief flak-catcher. The debonair man in an expensive suit and chic rimless spectacles now heads SABC3. But before this, Raubenheimer ranked among the Afrikaner elite who ran the SABC. Drawn from the Broederbond, it was Raubenheimer and his ilk who fine-tuned the propaganda machine. He moved up its ranks, distinguishing himself first in radio and then in television. From 1984, he was responsible for scripting the daily *Comment*, a political opinion slot on radio now recognised as one of the key points in the SABC's systematic propaganda plan.

"I would like to state categorically that it was a tragedy that the public was not fully informed of the situation in the country," Raubenheimer told the gathering of SABC

staffers and other members of the broadcast industry who had come to the confessional.

Under the bright lights of the SABC studio, which played host to this week's hearings, the scene looked like a public interrogation, as close to a broadcasting Nuremberg as we're likely to get.

He told the audience "The SABC would not broadcast anything that would undermine the government or stoke revolution." Fortnightly strategic meetings made sure that the SABC's leadership was kept "informed" of that which could undermine or stoke. Although the broadcasting czars did a fine job of censoring themselves, they operated in a system of institutionalised censorship.

The Broadcasting Act and a "journalistic" code fleshed out exactly what the SABC would cover and what it would ignore. Raubenheimer provided the list: the SABC was for the free market, structured negotiations with recognised leaders, national reconstruction and reconciliation. It was against communism, socialism, nationalisation, violence and terrorism.

Johan Pretorius who served as political correspondent and later as editor-in-chief, told the hearing that the SABC was an essential part of the government's "total strategy" to



Chic amnesia: SABC's Louis Raubenheimer before the truth commission.

PHOTOGRAPH: NAASHON ZALK

combat the "total onslaught". He displayed just how successful the regular military and stratcom meetings had been when he told stony-faced commissioners "I accept full responsibility for any decisions of my own or of my subordinates," adding that "our sons were fighting in Angola. The Cubans were there. It was a low-level civil war".

The legacy of the old SABC is going to take many years to shake off. There's an office in Radiopark, some say, which was the direct link to PW Botha's office. The old speaker which was that link has been retained. The old black and white toilet signs, still fixed to the walls, highlight the work-

place apartheid which extended far beyond separate toilets.

The poor training policies mean staff still struggle to catch up and compete effectively now that the SABC has competition. People like Raubenheimer continue to work there — forming a necessary bridge between old and new.

But with a history which is still in such sharp focus, the absence of SABC chief executive Zwelakhe Sisulu and his sidekick Enoch Sithole this week was glaring. "We decided against making a submission. We cannot answer for our predecessors," said Sithole. But the SABC's recent past has bearing on its present.

Former board member and media analyst Dr Ruth Teer-Tomaselli says "You cannot plan the future without understanding the past." There are many questions about the SABC's past which its new managers need to find the answers for. "They are the custodians of institutional memory," says Teer-Tomaselli. She complains that the SABC's archives are scanty and that nobody has a complete set of annual reports dating to 1936.

The SABC's official history, written after the new order had taken office, shows a similar amnesia. It is pure gloss, highlighting the SABC's sterling radio coverage of World War II and the glorious beginning of television in 1973.

Then it skips the whole period of propaganda and takes up again with the changes of the early 1990s. Seven years ago, the SABC's Broadcasting Centre was zoned into a separate municipal area and for many years it broadcast in a world of its own. The hearings this week shed little light on that world — somebody must if the SABC is to take up its place as a true broadcaster for the public.

Media's dragons failed to answer

MTG 19-25/9/97

The people who should answer for the media's apartheid past were absent from the commission hearings, writes Ferial Haffajee

African Associated Newspapers (SAAN)/TML

Ironically, those who represented the media at this week's Truth and Reconciliation Commission probe into their past were its brightest symbols of the future. Times Media Limited's (TML) Cyril Ramaphosa, the Independent Group's Moegsien Williams and the SABC's Govin Reddy came to represent their organisations at the commission's account of the omissions

and misdeeds of yesterday's press and broadcasting barons. The three were a contradiction. At one level they revealed a media corps on the cusp of a much brighter future. At another, their presence highlighted glaring absences — Deon du Plessis, Harvey Tyson and Andrew Drysdale from the old Argus group, Stephen Mulholland and Nigel Bruce from South

The commissioners, who had assembled to determine whether the media could be held responsible for gross human rights violations, looked perplexed. They didn't find themselves sitting across from yesterday's dragons responsible for the massive distortions in news coverage, the closing of brave newspapers and the systematic repression of black journalists which submission after submission had testified to. Instead, the commissioners heard today's leaders lay down impressive plans and make dignified promises

The bad old days: Jon Gwelane was one of the journalists who testified about the racial tensions in apartheid-era newsrooms



"Such practices as happened here must never happen again," said Ramaphosa, promising a great shake-up at TML.

The Independent Group's team acknowledged that the Argus Company had been a "staid, cautious, slow-moving company", while its

chief executive officer Ivan Fallon added "Our company has changed dramatically. We reject that an apartheid mindset still exists."

Instead, both groups promised more powerful positions for black journalists, more newspapers and the possibility of funding a media diversity fund to break down the monopoly they continue to hold over the press in South Africa.

But commissioner Mary Burton was not letting them off the hook that easily. There was an indictment of the media which the commission came across every day, she said "Every-

where people tell the commission, 'We had no idea what was happening,' adding that in some small towns, local newspapers would not write about the commission because advertisers didn't like that kind of copy.

But here, even the new boys would not concede easily. TML's chief operating officer Lawrence Clarke claimed a "proud record" opposing apartheid and "encouraging dialogue". Both groups said they had not interfered in the work of their editors but that they had always been mindful of "their fiduciary duties to their shareholders" which meant they did not risk pushing the borders of press freedom that the alternative newspapers later showed off to great effect.

There were nods of remembrance when Jon Gwelane reeled off a litany of bad practice by the two newspapers: separate canteens, separate crockery, different pay and different news values. One incident stayed with him.

On a Friday on the beat, he remembered, a black man had committed suicide, leaving seven children destitute. On the same day, a truck with sheep had overturned on the highway. The sheep made it onto the first page of the *Sunday Star*. The seven children just squeezed onto the news pages of the Africa edition.

The wolves in sheep's clothing also shed their disguises at this week's hearings. A slew of media spies from the old security forces appeared before the commission dishing out confidential documents marked *Ufers Geheim* by the dozen.

National Police Commissioner George Fivaz's communications adviser Craig Kotze chose the hearings to come clean and "reveal" one of South Africa's worst-kept secrets that he had been a security branch agent while he worked at *The Star*.

From his testimony, he seemed neither an able spy nor journalist. "I was expected to operate like any other journalist and I was in fact often scooped by opposition media on some big stories [like] the Winnie Mandela, Storme Seipei and Olivia Forsyth stories among them."

How media did the state's dirty work

M+C 19-25/9/97

(252)

In 1982 *The Star* newspaper published a story exposing the Reverend Allan Boesak's affair with an official of the South African Council of Churches. The story was based upon information fed to it by security police. To justify its decision, the newspaper claimed that it was an expose of the security branch's dirty tricks. Yet a top secret document released at the truth commission's media hearings this week paints a different picture. This document, which is an intriguing insight into how the mainstream media were manipulated by the apartheid security forces, is published here, in edited form, for the first time.

This document will attempt to set out in chronological order the exposure of Dr Boesak's relationship and the role played by the security branch.

Members of the security branch, Johannesburg, supported by the intelligence unit, head office, monitored Dr Boesak's visits to Johannesburg since July 1984. At an early stage, this monitoring proved rumours of an extramarital affair between Dr Boesak and Miss Scott.

The security branch in Johannesburg (as in other centres) had sympathetic sources in the hotel industry which regularly assisted them in security operations.

National Intelligence (NI) was also informed about the investigation. They helped by providing dates on which Boesak left Cape Town — information they had from reporter WH11. NI had started their own investigation into the Boesak/Di Scott relationship.

The tape is a recording of only one encounter at the Milpark Holiday Inn. Only one member of the hotel's staff knew of the operation by the security branch that evening.

The following security branch members were involved in the gathering of the information: Captain E van Wyngaardt, Lieutenant Le Roux, Warrant Officer RHL Raven, Sergeant N Bosch.

The fact that Dr Boesak and Miss Scott were involved in a relationship was not only known to the security branch, but had already been discussed for a while by church leaders and in church circles.

Some members of the public had apparently also known about this and in November 1984 an unknown person phoned numerous newspapers in Johannesburg with the information that Boesak and Scott shared a rondavel at Tiger Bay, Zimbabwe, from 22 October 1984 to 25 October 1984. Till today it is still unknown who made the calls, but newspaper inquiries led to the suspicion that the person worked for the travel agency which made the bookings at Tiger Bay.

At this stage it was primarily Tony Stirling at the *Citizen* and Stephan Terblanche of the *Sunday Times* who inquired from members

of the security branch head office whether any confirmation could be given that there was an extramarital affair between Dr Boesak and Miss Scott.

Confirmation was initially given to the *Citizen* and the *Sunday Times* that there was indeed a relationship between Dr Boesak and Miss Scott. The journalists were informed that they apparently had the same information that had been given to the security branch.

There had been discussion and a decision within the security branch that if the relationship was exposed in the media, there would be benefits for the state's counter revolutionary strategy. It was decided to implement the following strategy regarding the media.

The security branch has no official involvement in the issue as it does not present a threat to state security. Notwithstanding this, the security branch is in possession of a tape recording which proves the alleged relationship conclusively. If there are any inquiries it has to appear that the security branch does not know where the tape originated from.

As a result of our good understanding with certain selected journalists the information that was given to the security branch anonymously will be passed on to them.

Copies of the tape recording as well as the details of the couple's meetings in hotels will be given to the newspapers and the journalists.

Some journalists have passed on the information to other persons and it is not known to the security branch who has received it.

Stephan Terblanche (*Sunday Times*), Tony Stirling (*Citizen*), Cyril MacAvery (*Citizen*), Ben Gertenbach (*Transvaler*), Jean Oosthuizen (*Transvaler*), Cas van Rensburg (*Beeld*), Mr Kruger (*Beeld*), Norman Chandler (SAAN), John Horak (SAAN), Cliff Saunders (SABC), Aida Parker (*AP Newsletter*).

It should also be mentioned that the information was initially only given to the *Citizen* and the SAAN group. After the sources could not succeed in getting the information published, especially out of fear of the legal steps which could have been taken against the newspapers, the information was also passed on to Perskor, Nasionale Pers and the *Aida Parker Newsletter*.

Before any of the abovementioned newspapers could publish the story, it appeared in *The Star* on 1/11/85. It has to be stressed that no member of the security branch contacted journalists at *The Star* in connection with the information.

After Aida Parker's legal adviser deterred her from publishing the information, she gave it to United Christian Action, a conservative church group, and members of Victims Against Terrorism (VAT). Parker and Mr Jonty Leontsinis of VAT used their own initiative to distribute the information in a way that made it difficult for newspapers to ignore.



Allan Boesak Affair revealed

The pamphlet *The Star* reported about was compiled by Leontsinis and distributed to churches and newspapers. The printing was done by him on his private rotonde machine. The typing was done on a typewriter he bought specially and which he destroyed immediately afterwards. Mr Leontsinis produced an edited version of the tape recording which he disseminated.

The following security branch members liaised with the abovementioned journalists: Brigadier HD Stadler, Major CM Williamson, Major AZB Gous, Major WF Wentzel, Captain JL McPherson, Lieutenant NS Bower, Lieutenant JD Pretorius.

It has to be stressed that all the journalists in direct contact with the security branch were long standing regional office/head office confidants.

It is also important to note that none of the newspapers which had been in contact with the security branch supported *The Star's* allegation of an organised state/security branch operation.

The fact that the press received the information both anonymously and from their "sources" in the security branch strengthens their belief that the security branch was not involved with the initial anonymous leak and was thus not involved in an organised conspiracy against Dr Boesak.

The fact that the abovementioned newspapers did not indicate in their reports or commentary that they received the information about Dr Boesak from the security branch, indicated that in this case they themselves were so compromised that they would not be in a position to support *The Star's* allegation of a state conspiracy.

The role of *AP Newsletter*, the United Christian Act and Mr Leontsinis of VAT must be protected at all costs because the first two are South African Army projects and the third is a joint South African Police/South African Army project.

Ex-MK woman gets amnesty

Star 19/9/97 (252)
Cape Town - Former Umkhonto weSizwe commander and journalist Muff Andersson has been granted amnesty for distributing weapons to self-defence units between 1991 and 1994, the Truth and Reconciliation Commission announced yesterday.

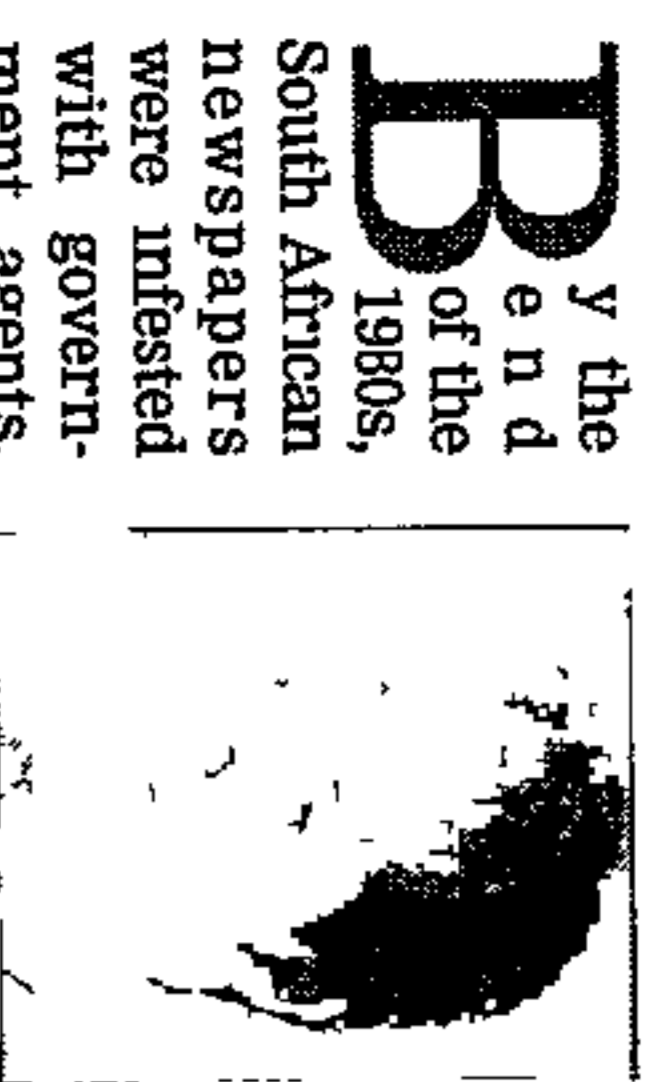
In her amnesty application, Andersson, a for-

mer regional MK commander in Zimbabwe and later spokesman for the defence ministry, admitted to storing and distributing weaponry to MK structures.

The weapons had been "used for purposes of self-defence in communities which were under attack by the state", she said. - Sapa

Dirty tricks, spies and the Boesak affair

How 'friendly' journalists were lured into 'exposing' controversial cleric



By Robert Brand

By the end of the 1980s, South African newspapers were infested with government agents, part of the apartheid state's effort to use the media for "political and psychological warfare" against liberation movements.

This evidence was presented to the Truth and Reconciliation Commission's special media hearing this week by former intelligence operatives Craig Williamson and Victor McPherson.

More than 40 undercover police officers, paid informants, unwritten "sources" and "friendly" journalists at publications ranging from The Star to Rooi Rose constituted the network set up by the intelligence agencies to manipulate news and polish the image of the government and the security forces. These were the so-called "Comop" (communications operations) and "Stratkom" (strategic communications) projects run by the police and the military, Williamson said.

Star 19/19/97

(252)

The operation was launched as a result of a State Security Council instruction to discredit leaders of the Mass Democratic Movement, Williamson said. Rumours of an affair between Boesak and Scott had been current in church circles in 1985, but had not surfaced in the media.

The security police set about getting confirmation of the rumours by using "well-disposed sources in the hotel industry", Boesak was monitored at seven hotels in Johannesburg. At the Milpark Holiday Inn, police obtained a tape recording of a conversation between Boesak and Scott during one of their interviews.

At the same time, journalists who had heard rumours about the affair approached the security police for confirmation, which was provided to journalists from The Citizen and The Sunday Times.

"The security branch decided if the affair were exposed by the press, it would hold advantages for the state's counter-revolutionary strategy," the top secret police report states. "The operation gained momentum 'As a result of the good understanding with certain selected journalists the information was made available to them on the understanding that the relationship between journalists and their source should be protected'."

Transcripts of the tape recording and details about meetings between Boesak and Scott were provided to 11 journalists at the Sunday Times, The Citizen, Transvaler, Vaderland, Beeld, South African Associated Newspapers (now TML), the SABCA and the Aida Parker Newsletter.

All the journalists who were approached - they are named in the report - were "either security branch members, sources or long-standing confidants of the security branch". The security police sat back and waited for the story to break.

When it did, however, it was in an unexpected quarter - The Star, which had not counted among the original list of "selected" newspapers. "It has to be stressed that no member of the security branch had had contact with journalists of The Star in connection with this information," the report states.

The Star had obtained the information at third hand from an organisation called United Christian Action, which had obtained it from Aida Parker, who had received it from the police and did not publish for fear of legal consequences.

The Star confirmed the information through investigations of its own. Both the Aida Parker newsletter and United Christian Action are described in the report as "SA Defence Force projects", a secret which should be "protected at all costs".

In breaking the story, The Star made it clear it suspected the leaking of information about the affair was a security branch "dirty tricks" campaign. In a front-page editorial accompanying the news report, editor Harvey Tyson wrote "The worst aspect of the Boesak affair does not concern Dr Boesak's public or private life. It is the fact that a government agency was used to smear a political opponent."

The security police's top secret report, however, notes with satisfaction that none of the newspapers originally entrusted with the information had revealed the security police link or followed The Star in condemning the smear. The operation was a success, the report concludes, because it had undermined Boesak's credibility in church circles.

Dirty tricks campaign against leading churchman

Police spies expose Boesak's love affair

COMMENT

Who feels safe?

THE WORST aspect of "the Boesak affair" does not concern Dr Boesak's public or private life. It is the fact that a Government agency was used to smear a political opponent - using "dirty tricks" that no longer shock South Africans.

The gossip about Dr Boesak was already spreading. He, his political associates must have with it.

But the problem which South Africa lives with is far greater. The nation lives with the fear that "dirty tricks" matching the smear tactics used by branches in



UTTERS GEHEIM

sekere selekriewe joernaliste is die inligting, wat anoniem deur die Veiligheidsstak bekom is, aan nulle verskaf met dien verstande dat dit op individuele basis gedoen is en dat die verhouding tussen joernaliste en hul bronne, beskerm moet bly.

Translation of quote from police document: "As a result of a good understanding with certain selected journalists, the information obtained by the security branch was provided to them on the understanding that it was done on an individual basis and that the relationship between journalists and their sources should be protected."

"I embarrassed Boesak, there is a strong possibility that he will find it impossible to maintain his influence in church circles. Even if he enters politics, the disclosure of his sexual affair with a white girl will remain an embarrassment for his supporters."

An "unintended positive consequence", the report notes, was that Tyson's reputation had also been dealt a "serious blow in left-wing/liberal circles", where it was thought the newspaper had played into the hands of the state by discrediting Boesak.

The report concludes: "Although it is not a primary function of the security branch to achieve popularity, the reports in The Star created an image of a security branch which is effective, all-knowing and efficient although it does not always play by the rules."

That was then, this is now as the media face the future

Star 19/9/97

(262)

By ROBERT BRAND

Did mainstream newspapers actively collude with the National Party government, contributing to the violation of the human rights of the majority of South Africans under apartheid?

Or did some of them fight a courageous battle in the face of great adversity, materially contributing to the downfall of an evil system?

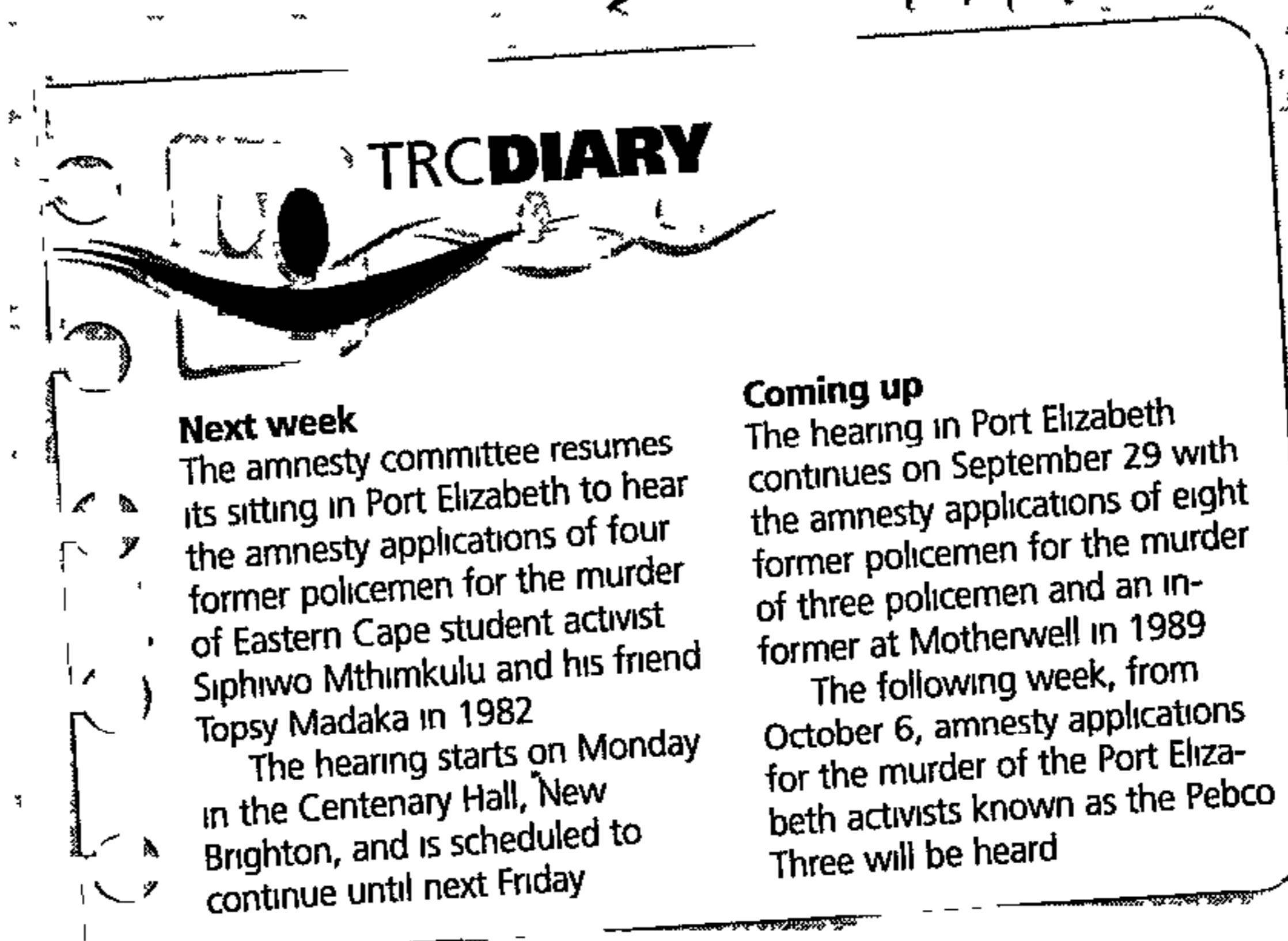
Both of these views were expressed before the Truth and Reconciliation Commission's media hearings this week. And as usual in matters which give rise to extreme opinions, the answer probably lies somewhere in between.

Members of the Forum of Black Journalists, notably veteran journalists Jon Qwelane and Thami Mazwai, stated bluntly that the English liberal newspapers, including The Star, had an interest in maintaining the status quo and protected this interest vigorously. Qwelane, Mazwai and other black journalists testified about their experiences in the newsrooms of white-owned newspapers

And one cannot dismiss their accounts of petty apartheid practised in the workplace, racial discrimination against black staffers, the reluctance to accept black lives as a subject worthy of proper coverage. "I want to charge all mainstream newspapers, Afrikaans and English, with collusion with apartheid and having a hand, directly and indirectly in the murder of thousands of black people by the police," said Qwelane.

"The media actively opposed all activities undertaken by anti-apartheid forces to fight for liberation, including the armed struggle, sanctions, consumer boycotts and stay-aways," said Mondli Makhanya, assistant news editor at The Star.

"Most whites lived in a state of Denmark - they lived and perpetuated that rot," said poet, writer and one-time journalist Don Mattera. "And the state of journalism cannot be divorced from the rotten state of South Africa as it pertained then."



TRC DIARY

Next week
The amnesty committee resumes its sitting in Port Elizabeth to hear the amnesty applications of four former policemen for the murder of Eastern Cape student activist Siphiso Mthimkulu and his friend Topsy Madaka in 1982
The hearing starts on Monday in the Centenary Hall, New Brighton, and is scheduled to continue until next Friday

Coming up
The hearing in Port Elizabeth continues on September 29 with the amnesty applications of eight former policemen for the murder of three policemen and an informer at Motherwell in 1989
The following week, from October 6, amnesty applications for the murder of the Port Elizabeth activists known as the Pebco Three will be heard

Mattera spoke in poetic and moving language about a "holocaust of the truth", about the injustices suffered by black journalists, about the porcelain tea cups for white journalists and tin mugs for blacks

"If the mainstream South African newspapers had done what good newspapers all over the world are supposed to do, nobody today would have been able to say: 'I did not know'," said Max du Preez, founder and editor of the alternative Afrikaans weekly Vrye Weekblad, which held up the standard of independent journalism for five years until finally, overburdened by legal costs resulting from its battles with the state, it closed down in 1994.

Some of the criticism was misinformed: "In mainline newspapers there are no black women journalists in senior positions," said Nomavenda Mathiane of Business Day, completely disregarding the news editor and the editorial page editor of The Star, both of whom are black women. The factual inaccuracy, however, did not negate the general truth that there are far too few women of any description in positions of power in the media.

Newspaper proprietors, on the

other hand, were understandably less condemnatory. It is in the nature of the new South Africa that those who spoke for Independent Newspapers and Times Media Limited were not those who ran the companies during the height of apartheid; nevertheless, they defended their products vigorously, albeit with different emphases

"Our publications have a proud record of keeping the South African public informed and defending human rights," said Lawrence Clark, chief operating officer of TML. "We reject any allegation that our newspapers colluded with the government."

Clark went on to explain that newspapers under apartheid did their best to do their job in an antagonistic environment infested with laws restricting the free flow of information. Neil Jacobson, his deputy, described the press as "a victim as much as anybody else" While he did not doubt allegations of discrimination practised by newspapers in the newsrooms, he denied that the company ever had a policy of discrimination

"Newspapers are produced under conditions of stress Sensibilities get trampled on, creating perceptions of

racism even when none is intended," he said, quoting from TML's submission, prepared by former Rand Daily Mail editor Rex Gibson

Independent Newspapers (formerly Argus), through its chief executive Ivan Fallon and Rory Wilson, managing director of Independent Newspapers, Cape, acknowledged that the company's record showed "too many shortcomings".

They offered an apology, but no excuses newspapers functioned in trying conditions, Wilson said, but "we should have done much more to overcome the obstacles of apartheid laws". The alternative papers, he said, showed up the old Argus company by keeping in touch with the oppressed masses while Argus made "insufficient attempts to generate news from disadvantaged communities".

Fallon and Wilson emphasised Independent Newspapers' more recent record of trying to make up for mistakes of the past through training, "fast-tracking" of previously disadvantaged staff members, and a "comprehensive affirmative action policy" to redress imbalances in the editorial and management structures.

The Independent group, said Fallon, had "changed dramatically" in the past three years and was now deeply involved in "a vigorous process of transformation".

But tough questions remained How, for instance could Craig Kotze, an undercover policeman, continue to work for The Star for six years, dutifully doing his (police) duty of reporting positively on the security forces?

The hearing revealed a chasm in perceptions of what newspapers did during apartheid and what they are doing now to build a new nation.

It also, however, revealed one commonality. that a free media is an essential component of democracy

Perhaps, as the TRC chairman said in his opening address, this one principle on which everyone agrees could become the basis on which could be built a media which represents the aspirations of all the people of South Africa

TRC's life extended by four months

Cape Town - Cabinet has approved proposals to extend the life of the overburdened Truth and Reconciliation Commission by four months, to give it more time to complete its work, TRC chairman Archbishop Desmond Tutu said yesterday.

"We now intend to deliver our final report to the Government at the end of July next year, instead of the middle of March," Tutu told a media briefing in Cape Town.

The TRC chairman said the commission had agreed to the extension after consultations with the Government.

He also announced that the commission's amnesty committee was to be expanded from seven members to 19.

The committee has been battling to process the more than 7 000 amnesty applications it has received so far, and the extension of the applications deadline to September 30 means more are expected.

TRC chief executive officer Dr Biki Mnyuku said the envisaged extension of the commission's lifespan would cost an estimated R43-million in additional running costs.

The TRC, set up in December 1995, was

originally given 18 months in which to complete its work, and was to have shut down in July while preparing its final report for President Nelson Mandela.

The commission's lifespan was subsequently extended to December 14, with March 14 set as the date by which the report had to be handed to Mandela.

The extension now being proposed would allow the TRC's committees to complete outstanding work by April 30 next year, except for the amnesty committee which would have until June 30 to complete hearings. - Sapa

(252)

Star 19/9/97

Afrikaans press say they wanted change but did they really

By Robert Brand

While the media came under fire before the Truth and Reconciliation Commission this week, one newspaper was singled out for special praise from one who had little good to say about the mainstream press in general.

"Beeld is today one of the most professional and respected newspapers in South Africa," said former Mye Weekblad editor Max du Preez. "It is probably one of the most progressive white newspapers in the country, certainly the most progressive and open-minded daily Afrikaans newspaper ever."

Much was said at the TRC's special hearing on the media about the record of Beeld and other Afrikaans newspapers under apartheid, but none of it by the newspapers nor their proprietors. Ton Vosloo, chairman of Nasionale Pers, had snubbed the commission's invitation to make a submission.

"We are obviously distressed at the attitude of the Afrikaans media," Tutu said at the start of the hearing. "We need input from all the different constituencies. Could silence from that quarter be construed as an admission that it was a handmaiden of the apartheid government?"

Tutu expressed a hope that sections of the Afrikaans media would "somehow take the opportunity of letting us know their side", a hope based on reports that more than 50 staffers of Beeld had signed a petition calling on their newspaper to make a submission. Nothing came of it, and it was left to others to judge them. Du Preez, although flattering about the present-day Beeld, was far from complimentary about the newspaper's record in the past.

"The Afrikaans press claims now that they have always been in favour of a negotiated solution, and had encouraged the National Party towards this goal. Why, I want to ask

them, did they then whip up extreme hysteria when a few dozen of us, mostly Afrikaans speakers, went to talk to the ANC in Dakar in July 1987?"

"They called us communists and idiots, when all we wanted to do was try and break some of the ice to make negotiations more acceptable."

Du Preez, who started his career at Die Burger and worked at Beeld before moving first into the English press and then the alternative press, said Afrikaans newspapers did not do enough to prepare their constituency for change. "Their argument is that they

(252) Star

could not move too far away from their conservative Afrikaner constituency. I have no doubt in my mind, being an Afrikaner from a conservative rural background myself, that they could have pushed much, much harder without alienating their readers."

Another who spoke about the role of the Afrikaans press was Professor Arrie de Beer, director of the Institute for Communication Research at Potchefstroom University. De Beer, who also has a background of journalism in the mainstream Afrikaans press, said he regretted the decision by the Afrikaans media not to appear before the commis-

sion.

"The TRC, notwithstanding possible shortcomings, provides an important forum to individuals and institutions to account for their actions and consciences," De Beer said.

In a written submission accompanying his oral testimony, De Beer said certain Afrikaans dailies at the height of apartheid were official mouthpieces for the NP. NP cabinet members served on the boards of directors of Afrikaans press groups; the SABC was used by the NP to its own advantage, and progressive Afrikaans writers and politicians were mercilessly criticised.

push for it? 19/9/96

Keeping you up-to-date

Every Friday, The Star will produce a new feature to help you up-to-date with the Truth and Reconciliation Commission. The feature, produced by our team of specialist reporters, will provide all the background, the news and the insight you need to follow you in the picture of the dramatic story of our past unfolds.

Amnesty committee gets more members, more time

CT 19/9/97

(252)

ROGER FRIEDMAN

THE Truth and Reconciliation Commission's amnesty committee is to be expanded from seven to 19 members and the commission's life extended by four months at an estimated additional cost of about R43 million.

"After consultation with the government, the commission has agreed that four months should be added to our life to complete our work properly and intend to deliver our final report to the government at the end of July next year instead of in the middle of March," chairperson Archbishop Desmond Tutu said yesterday.

Addressing the media after the commission's monthly meeting, Tutu said the purpose of the extension was two-fold: To allow the body time to work through the more than 14 000 statements received from victims and survivors of gross human rights violations to determine who would qualify for reparations and to be able to include a full report from its



amnesty committee in its final report to the government.

At its last monthly meeting the commission had resolved to close down all operations bar the amnesty division in March. It was decided that the final report would be submitted in March, which would be supplemented by an amnesty report later.

Tutu said yesterday "The amnesty process is only one part of a much wider national project of healing and reconciliation and it needs to operate as an integral part of the total mission of the TRC. To have the amnesty hearings continue simply as a legal mechanism, without any reference to the wider objectives of the TRC would subvert what we have achieved so far."

"Parliament will be asked to amend the law which governs our operations. It is proposed that the amendment should not allow us to take on any new work after December 14, the original closing date for most of our operations."

The amendment to be sought would allow the human rights vio-

lations committee and reparation and rehabilitation committee until April 30 to complete its work, while the amnesty committee would have until June 30.

The amnesty committee began its life with five members serving on a single panel. It was subsequently increased to seven members, and Parliament passed an amendment allowing it to expand to 13 members. Now a further amendment will be required.

TRC chief executive officer Dr Biki Minyuku said yesterday the proposed 19-member amnesty committee would be divided into six panels which could hear cases in different parts of the country simultaneously.

Minyuku said the extension and expansion would require an estimated R21,7 million in funding for this financial year, and a similar amount next year.

The original budget for the commission to cover its anticipated two-year life-span ending in December this year was R75 million a year.

Tutu said the extension and expansion had been approved by cabinet.

Amnesty for (ES2)
Muff Anderson
00 1919197

CAPE TOWN — Former Umkhonto we Sizwe commander and journalist Muff Anderson had been granted amnesty for distributing weapons to self-defence units between 1991 and 1994, the truth and reconciliation commission announced yesterday.

In her amnesty application, Andersson, a former regional Umkhonto we Sizwe commander in Zimbabwe and later spokesman for the defence ministry, admitted storing and distributing weaponry to Umkhonto we Sizwe structures.

The weapons had been "used for purposes of self-defence in communities which were under attack by the state and its surrogates", Anderson said — Sapa

Self-serving submissions cloud the issues

THE hot white studio lights shinning down on the inquirers and the questioned at a truth commission hearing in the bowels of the SA Broadcasting Corporation's (SABC's) TV centre this week lent themselves perfectly to the truth-seeking task at hand.

It was as if nothing could be hidden from the glare of the lights and the commissioners hoping to establish if the media were guilty of human rights abuses during apartheid.

Instead of inspiring the smelter to stay underground and out of sight, the lights also appeared to draw from the woodwork all manner of "creatures", as writer and poet Don Mattera described them in his testimony — agents of the apartheid state who made their living informing on newspapers and the people who staffed them.

However, even light cannot expose all things hiding in the darkness of nooks and crannies. Where the commission sought truth, it also found half truths, lies, obfuscation and self-righteous defence.

The latter came not just from spies and secret agents as might have been expected, but from former newspaper, television and radio editors and from the executives of newspaper companies that witnesses claimed colluded with the National Party (NP) to suppress information and delay the day of the apartheid government's downfall.

From the outset, the commission must have been daunted by the prospects.

The first day dealt with the broadcasting industry (read the SABC) and its dubious role between 1960 and 1993, the years under review.

Without an official submission from the SABC, or any officially sanctioned SABC representation at the hearing, the commission was left to hear the versions of events provided by former staffers and one serving executive — SABC's GM Louis Raubenheimer, who joined the corporation in the early 1970s as a personnel officer and rose through the ranks to become head of actuality programmes and then editor-in-chief of news strategy in the 1980s, regaled the commission with tales of the SABC's independence from the NP.

Despite him and other senior SABC employees being members of the Afrikaner Broederbond and attending meetings of the State

The truth commission's media hearings this week ironically lacked comprehensive evidence and documentation, writes Kevin O'Grady

BD 19/9/97

(252)



How big was the spy network? John Horak and Vic McPherson under the spotlight at the media hearings

Security Council's Stratcom subcommittee, there was never any direct interference by either of these bodies in day-to-day running of the corporation's news and actuality services, he maintained.

Politicians, too, kept their noses out of SABC affairs. "During all my years at the SABC, not once did I receive a call from a politician in a prominent position to instruct me to give a certain point of view in a commentary," he said. There were "strong differences of opinion between the news division and the government of the day".

Testimony later in the day by former actuality anchor Pat Rogers and former SABC board member Sampe Terreblanche, and a day later by SA Police spies, who said the "special relationship" between the state and the SABC made clandestine infiltration unnecessary, somewhat diminished Raubenheimer's assertion. Former head of documentaries

Don Briscoe, who expressed admiration for the 1950s documentaries of Nazi propagandist Leni Riefenstahl, excused the making and broadcasting of military propaganda on the grounds that "the total onslaught was very real" and that making the "documentaries" would "show the military preparedness of the country". His work was never politically motivated, though — he "just loved making films".

SA Union of Journalists past president Pat Sidley set the scene for the startling utterances of day two of the hearing — which saw an interesting mix in the audience of former secret agents, media personalities and ageing editors — when she raised the issue of state spies in the workplace.

Journalists in the 1980s, she said, "worked with and around people who were obviously getting several pay cheques at once in the cause of getting information

for the state and disrupting journalists' lives".

She named John Horak, a security branch major who worked as a journalist for 27 years, eventually rising to the position of group managing editor at SA Associated Newspapers (SAAN), as one such operative.

"We made several attempts to get him out of our news system, but our editor (Raymond Louw, who later confirmed Sidley's testimony on this point) seemed to think it was necessary to provide evidence of two pay cheques. So he remained there and did very nicely off our backs," Sidley said.

Horak told an astonished audience the commission had already had lengthy private discussions with Horak and his colleagues and clearly knew what to expect) of the extent to which the security branch had pervaded the media. "At any given time, half the people on a newspaper like the

Rand Daily Mail (where Sidley, Horak and Louw worked) were given to be informers and the other half to be communists," he said.

There followed a mind-boggling account of how, after secretly serving the state's interests for years, "the rug was pulled out from under me when in 1985 I wanted to leave the police. I had become a committed journalist by that time. An announcement was made that I had become chairman of Stratcom and that killed my career in newspapers."

After stalling on the banning of the Weekly Mail and the New Nation as media committee chairman during the state of emergency in the late 1980s, Horak said he was perceived as "too soft and no longer in tune with the government" and was removed.

Despite his retirement and subsequent recruitment by the African National Congress, however, the media was still not safe

from state operatives. "There are more people working on newspapers now as informers and agents than under the old government. It has to be. A government that doesn't do it won't be doing its duty," he said.

But Craig Kotze, another serving policeman who also worked as a journalist (spy handler Supt Vic McPherson told the commission there were an additional 38 journalists he regarded as his "personal contacts"), said the new SA Police Service no longer recruited media spies.

Kotze, who worked as crime reporter and military correspondent at The Star and is now an adviser in national police commissioner George Fivaz's office, said he had no regrets about his role as an undercover agent.

"My mission was to balance the inherent media bias against the SA Police" — something he believed played a role in ensuring the SAP could safeguard SA's transition to democracy.

Kotze offered an avid defence of his subversion of the media, pointing out that newspapers were probably infiltrated by as many "revolutionary" agents as security police spies.

Day three brought SA's two major newspaper groups — Independent Newspapers (Argus Newspapers during the period under review) and Times Media Limited (TML, formerly SAAN) — to answer allegations of racism and collusion with the state.

Alternating between defence of their newspapers' performance under apartheid and denials of official racism (SAAN/TML), and a near effusive apology for their publications' shortcomings (Argus/Independent), these two presentations would not have left the commission with a clear picture of what transpired.

Part of the problem, as Louw pointed out as the special hearing drew to a close, was that very few of the allegations of racism and collusion — and questioning by commissioners on hot issues such as the newspapers' unashamed use of the word "terrorist" to describe freedom fighters — was supported by "chapter and verse".

In an industry that records events for posterity, many of the answers the commissioners sought were more likely to be found in the archives of the SABC and the newspaper groups than in the largely self-serving submissions of their representatives.

id
re
n
of
re
re
n

Ex-editor rejects collusion charge

Nomavenda Mathjane

~~243~~ (252)
DD 19/9/97

A FORMER editor, Harvey Tyson, rejected allegations made by Mafube Publishing editor-in-chief Jon Qwelane at the truth commission on Wednesday that editors had colluded with the SA government to suppress news during apartheid.

However, Qwelane stuck to his story yesterday, saying editors knew which agreement he was talking about. "The editors did not tell the whole truth at the commission," Qwelane said.

He said he had not personally seen the document allegedly signed by "newspaper bosses" in the presence of then SA State President PW Botha. However, Botha had mentioned it at a National Party rally in Nelspruit some time in 1988. That agreement made it possible for government to engage in the total onslaught, he said.

Former National Press Union (NPU) president Jolyon Nuttall said there were agreements that had been signed in the 1960s, by the NPU and the defence and law and order ministries which enabled journalists to gain access to certain defence and police stories. He said the agreement basically dealt with the accreditation of journalists.

Tyson, who was editor of The Star, said the NPU had met Botha, who had told them there was an onslaught on SA.

Tyson said he had challenged that view and as far as he could remember no editor present had signed any document.

This week The Star's former crime reporter Craig Kotze admitted for the first time that he had been a "secret agent". Tyson said he could not have fired Kotze because there was no proof he was an informer.

Although he personally suspected Kotze was a spy he kept him on the police beat because "he was a conduit for police information".

See Page 13

they provide to quality for...

TRC gets four more months

AKG 19/9/97

(252)

The Cabinet has agreed to extend the life of the overburdened Truth and Reconciliation Commission by four months so that it can complete its work, says TRC chairman Desmond Tutu.

"We now intend to deliver our final report to the Government at the end of July next year instead of the middle of March," Archbishop Tutu told a media briefing in Cape Town yesterday.

He also announced that the commission's amnesty committee was to be expanded from seven members to 19 to allow six three-member panels to sit simultaneously in different parts of the country.

The committee has been battling to process more than 7 000 amnesty applications it has received so far. The extension of the applications deadline to September 30 means more are expected.

TRC chief executive Othman Biki

Minyuku said the envisaged extension of the commission's life would cost an estimated R43-million in additional running costs.

The TRC, set up in December 1995, was originally given 18 months to complete its work and was to have shut down in July while preparing its final report for President Mandela.

The commission's life was subsequently extended to December 14, with March 14 set as the date by which the report had to be handed to Mr Mandela.

The new extension would allow the TRC's committees to complete outstanding work by April 30 next year except for the amnesty committee, which would have until June 30 to complete hearings.

Commissioners not involved in the amnesty process would then have the job of preparing the final report between May and June.

Archbishop Tutu said the purpose of the extension was twofold.

■ To ensure that the cases of victims and survivors of gross human rights violations, who had approached the commission, were completed. About 14 000 had made statements so far and more were expected to do so.

■ To ensure that the amnesty process was completed during the life of the commission so that a full report on the work of the amnesty committee could be included in the final report to Mr Mandela.

Dr Minyuku said the extension of the TRC's life would require an additional R21,7-million this financial year and another R21,7-million the following year.

The money would be used to "beef up" the amnesty committee and ensure that it had the necessary logistical and administrative support to complete its work - Sapa



Deadline extended: Archbishop Tutu

Courts must debate gay laws – Omar

IN
2A
PH
03

ARG 19/9/97 (252)

JERMAINE CRAIG
STAFF REPORTER

Justice Minister Dullah Omar says he has considered carefully an application to scrap laws criminalising same-gender sex – but adds the issue has far reaching implications which need to be debated in court.

The National Coalition for Gay and Lesbian Equality and the Human Rights Commission want a court ruling declaring it unconstitutional for sodomy between consenting adults to be illegal

They are also calling for the repeal of other laws affecting gays and lesbians

which they say are not in line with the country's constitution

Gays have reacted with "surprise and disappointment" to Mr Omar's decision to oppose their application and have vowed to circulate petitions and picket the Department of Justice

"I have no problem on the question of equality and the right of all persons – including gays and lesbians – to enjoy equality and non-discrimination as guaranteed in the constitution," said Mr Omar "To the extent then that the law may be inconsistent with the provisions of the constitution, I have no problem with the application. However, the relief claimed by the applicants is very

far-reaching

"My concern is that there are many implications with regard to retrospective relief which is being sought in such broad and sweeping terms. Those implications must be properly understood and be placed before the Constitutional Court"

He would abide by any court decision, but felt it was his duty as Justice Minister to assist the Constitutional Court and examine the implications of applications to change laws

Mr Omar said he would instruct his lawyers to highlight the implications of clauses in the coalition's application which could be "problematic"

Racism still rife in media, say black journalists

By GILLIAN FAROUHAR

This week's TRC hearings on the media saw black editors and journalists charge that racism within media companies is still rife despite denials and apologies from media bosses

Members of the Forum of Black Journalists (FBJ) said that while claiming to be opposed to apartheid in principle, the major English-language media groups' overall projection of events belied a "mindset that fell far short of fundamentally challenging the status quo".

Both Times Media Limited (TML) and Independent Newspapers in their submissions, admitted to shortcomings in their news coverage but denied collusion with the apartheid government

They maintained they operated within the constraints of the law for fear of closure and continued to look for loopholes through which to expose and break down apartheid

Matibe publishing editor-in-chief John Qweleane acknowledged that sectors of the English-language press had "performed some noteworthy tasks" in exposing the Info scandal, and the CCB and the Vlakplaas dirty-tricks networks. But he also charged that in making secret agreements with the government just prior to the implementation of the so-called "total strategy", the media bosses of the major groups colluded with the government in denying information to the public

This effectively held back the process of change and resulted in the deaths of many more people

"The blood of many of those murdered by the apartheid government is on the hands of the media owners," he says

TML, deputy chief operating officer Neil Jacobson described the press as a victim of the government and their determination to close information

He regretted the racism and discrimination in newsrooms which he said was not company policy but rather the result of prejudice, human weakness and insensitivity. He also said that TML trained more black journalists than any other publisher in the country

But he could find no explanation for the appointment of spy John Horak as group managing editor of the company. Horak told the commission that many company staffers and top management knew of his intelligence activities

Spy hunts

Former *Rand Daily Mail* editor Raymond Louw spoke of taking "precautions" against internal spies rather than going on a spyhunt

On the closure of the *Rand Daily Mail* in 1985, he said that while the stated reason was financial he believed it was government pressure that led to it coupled with pressures in the company to turn it into a specialist publication.

Replying to a question whether he had tested if promoting black staffers to positions of authority over whites did result in government reaction, he said he had not. But he believed that this was done by a subsequent editor

Regarding the lack of promotion of black journalists in major media houses, former *Star* reporter Mike Tissong said his experience in the

Argus group led him to believe it was self-imposed by media houses who used government censure as an "excuse to adhere to their own conservatism"

A TRC commissioner also put it to Independent Newspapers that intelligence operative Craig Kotze's stories in *The Star* were no less than "a mouthpiece of government" and questioned how it was possible for so many of them to have been used if management had not been sympathetic to this "line".

On the banning of *The World* newspaper in 1977, Matibe Publishing director Thami Mazwai accused *The Star* of hypocrisy

He said that while decriing the banning in one article, an editorial expressed the view that the paper had "gone beyond the bounds of responsible journalism"

This, he believed, contradicted mainstream media claims that they "pushed the limits"

Independent Newspapers chief executive officer Ivan Fallon said the company had made big changes over the past three years and is making efforts to correct the imbalances of the past with fast-tracking programmes

Speaking for TML, Johnnie chairman Cyril Ramaphosa said that similarly the company was determined to become truly representative "from the top to the bottom" within one year

Winnie's darkest hours

(252) / Star 20/9/97

By CHARLENE SMITH

Eight years after the disbanding of the Mandela United Football Club, Soweto is still a haunted community - where many who were involved live in fear of the resurrection of past deeds

Yet the Truth and Reconciliation Commission has not interviewed key victims, their families or senior members of the former Mandela United Football Club (MUFC) - less than a week before it will hear evidence from Winnie Madikizela-Mandela about 18 alleged human rights violations, including eight murders

Dumisa Ntsebeza, an Umtata lawyer and the commissioner in charge of the TRC investigation unit into the allegations around Madikizela-Mandela, asked, "Why should the commission have approached them (survivors or MUFC members) for anything? There are different ways of conducting investigations; we may be choosing to interview Mrs Madikizela-Mandela first."

"The investigation is open ended. We may then interview families or victims or survivors, but I know my investigators have worked extremely hard. I won't get embroiled in a media debate"

While an aura of fear still hangs over Orlando West eight years after the football club disbanded, it is believed that three questions asked of Madikizela-Mandela and her lawyers revolve around Eastern Cape incidents.

The TRC will not make its questions public, and Madikizela-Mandela's lawyers have refused to comment

None of almost 30 people interviewed by the *Saturday Star* in Gauteng and KwaZulu Natal - and all either victims of family members or key members of the club itself - had been approached by the Truth Commission

Survivors weep or shake in



Winnie Madikizela-Mandela



Was Toli Dlamini a victim?

fear as they recall alleged events - alleged murders, beatings, torture, and the burning of houses - that accompanied the football club's three-year reign of terror from 1986 to 1989.

Saturday Star investigations have ascertained 11 deaths and dozens of incidents.

Those killed include.

■ Stompie Seipei - MUFC coach Jerry Richardson was convicted for the 1989 murder

■ Dr Abu Baker Asvat. The man convicted of his death, Nicholas Dlamini, claims Madikizela-Mandela ordered the execution.

■ Toli Dlamini, shot 47 times with an AK-47 allegedly by Sizwe Sithole, an MUFC member and boyfriend of Zindzi Mandela, in 1988. The incident took place three months after Toli left the club and told friends

he feared for his life. Toli, a ball-room dancer, allegedly underwent a change of personality after joining the club, drinking heavily and becoming aggressive. On one occasion he was involved in petrol-bombing a vehicle owned by his uncle, with his uncle in it.

■ Sizwe Sithole, who allegedly died in mysterious circumstances in police custody in 1988.

■ Lolo Sono, an MUFC member who was allegedly abducted by Madikizela-Mandela and the MUFC after a shootout with police, saw two Umkhonto we-Sizwe cadres killed. His parents claim Madikizela-Mandela said their son was a police spy, and brought him to their house badly beaten. She refused to leave him with them. He has never been seen again.

■ Siboniso Tshabalala disappeared in circumstances similar to those of Sono.

■ Kuki Zwane, whom Richardson has recently admitted murdering at the behest, he claims, of Madikizela-Mandela.

■ Maxwell Madondo, an MUFC member killed as team members attacked Siboniso Chili, who had refused to join the football club. Other young Orlando West residents ran to Chili's aid and Madondo was beaten to death.

■ Finki Msomi (13), Chili's cousin, was shot at point-blank range in the head with an AK-47 and set alight during an alleged revenge attack on the Chili home after Madondo's death.

■ A refugee from the KwaZulu Natal conflict, known only as Bonnie, was allegedly killed and dumped near a Soweto highway in a black plastic bag.

■ Sabata, a young woman who belonged to the female wing of the MUFC. A plastic supermarket bag was allegedly tied around her head and she was beaten, and her family home burnt down in 1988. The family has since left Soweto.

TO PAGE 2

P.T.O.

FROM THE

◆ Winnie saga

(252)
Star 20/9/97

Only three incidents appear to have been investigated by police with any success the deaths of Asvat, Stompie and Madondo. Some have allegedly never been investigated at all. Madikizela-Mandela steadfastly claims her innocence.

A sure ticket to death, survivors claim, was for "yard" people, those members of the football club who lived in the backyard of Madikizela-Mandela's Diepkloof or Orlando West homes, to leave the club. "When you left the yard you left with information, so you must be removed from society," one former member said.

Katiza Cebekhulu, who now lives in London and whose claims in a new book have revived interest in the activities of the football club, allegedly feared leaving the club, those who knew him in SA said. Instead he would warn those on whom "death sentences" had allegedly been passed during MUFC meetings, including the Chili family.

Andrew Lerotodi Ikageng, a key MUFC leader involved in numerous club "raids", became distressed "after too many things went wrong and people were dying", a family member said. He had also been shot in the foot in a shootout between club members and ANC-supporting comrades. He left the club in 1989 and became a fugitive. He says he witnessed the killing of Toli Dlamini. His mother claims he was very frightened.

Club members allegedly tracked him down to Mzimhlope hostel, where Richardson has admitted slitting Ikageng's throat with garden shears and throwing him into a hole. After Richardson and others left, Ikageng crawled out and was helped by hostel residents. He is now a member of the SA National Defence Force – as many former football club members are, including Madikizela-Mandela's former driver John Morgan.

Other survivors remain scarred, some physically and all emotionally. Phumzile Dlamini, the sister of Toli, was beaten up while pregnant with her first child by MUFC members at the alleged instruction of Madikizela-Mandela. Family members claim her child was born retarded as a result. The assault allegedly took place before the death of her brother and after an alleged previous assault by Madikizela-Mandela, who was apparently angry that Dlamini had fallen pregnant by Shakes Tau, a driver with whom Madikizela-Mandela allegedly had a close relationship.

There is no doubt that people are still frightened, and those who spoke to the *Saturday Star* did so on condition of anonymity. Some cried, while the hands of others shook visibly. None said they would voluntarily approach the commission. "I have lived this long, I want to stay alive," one said.



Pull the other one: Truth Commission chairman Desmond Tutu and National Party leader Marthinus van Schalkwyk share a brighter moment after cordial talks yesterday

ANDREW INGRAM

Nats, Tutu bury hatchet — for now

(252)
AAS 20/9/97
STAFF REPORTER

New National Party leader Marthinus van Schalkwyk has held out an olive branch to Truth Commission chairman Desmond Tutu, in the wake of the legal battle between the two sides.

The two emerged in a jovial mood from an hour-long meeting yesterday to lay to rest a feud following Archbishop Tutu's criticism of the NP's submission to the Commission by the party's previous leader FW de Klerk. A subsequent court action brought by the NP was adjourned earlier this month to give the parties time reach a settlement.

"We are discussing what we could do in terms of this impasse," said Archbishop Tutu. Mr Van Schalkwyk said the meeting was very constructive and thanked Archbishop Tutu for his earlier apology.

ARG. 20/9/97

252

Mbeki cautious, editors divided on proposal for



RUTH GODDING-DUFFY

ON THE RUTH COMMISSION

A proposal for a commission of inquiry into the South African media has received a guarded welcome from Deputy President Thabo Mbeki's office and a mixed response from newspaper editors.

Thabo Mbeki's spokesman, Thami Ntsheni, said the implications of establishing a commission, as proposed by the academic Professor William Makgoba, had to be studied. Mr. Ntsheni said nothing had been discussed with Mr. Mbeki, but concerns raised by Professor Makgoba and other black intellectuals were the same, those raised by Mr. Mbeki "more than a year ago". "It is possibly a good idea but the feasibility of a commission needs to be canvassed across all stakeholders," Mr. Ntsheni said. He said it was debatable whether media owners should take part in a state supervised commission

using the same tainted people, some of whom were closely associated with the racial agenda within our country," he wrote. He suggested that a commission set up by the state address, among other questions, whether the "present media with their structures and organisations" were "suitable for our African country".

Professor Makgoba said the commission should also ask how the media "address issues of race within its own ranks and in its reporting of issues".

Some black editors argued that Professor Makgoba should not be taken seriously because he was an academic and not a journalist. But others said his proposal was timely. Mafube Publishing managing director and former editor-in-chief of Enterprise magazine Thami Mazwai supported the commission idea

He said there were "a number of issues which need to be thrashed out by the media concerning the media". "Journalists work from different perspectives. Does a Xhosa circumcison fill you with pride or revulsion? It is time that black South Africa reclaim its pride and we can start in the newsroom".

Pressure had to be exerted on white editors as "most newspapers operating today use white South Africa as the yardstick of what is right and what is wrong, what gets into a publication and what does not".

Sowetan editor Mike Siluma agreed that the media and relevant stakeholders should get together "to re-evaluate the role of the media" but he argued the issue of race, although crucial, should not be the premise from which the debate began. "It is the owners of media and the fact that newspapers are commercial-

ly driven that is the integral issue," he said. "The debate of media accountability needs to involve all parties ranging from owners and shareholders to the public and reporters".

Mr. Siluma said there needed to be "a social accord where the media has to decide on its role" but this did not mean reporters needed to indulge in "sunshine journalism".

He suggested, however, that the Government should consider financial assistance for the media. "If, as journalists, we feel we are accountable to the public and owners are concerned with profits and are accountable to shareholders then we are on different roads altogether. Where government can step in is, like in Sweden, to subsidise the media and in this way promote diversity".

Sunday Times editor Brian Pottinger rejected the idea of a commis-

sion of inquiry. "What is the point of a national commission and what can be achieved?" he said. "We've completed an inquiry into the media via government's Comtask (task group on government communications) and we've just completed the TRC hearings on the media".

He said the ultimate "judges" of whether or not the media was fulfilling its role were the readers. City Press editor Khulu Sibuya said the media "seriously needs to look into its operations" but warned against government intervention.

"Government should enjoy an observer status perhaps, but should not be allowed to play a leading role". Finance Week editor Nigel Bruce said a prescriptive commission as advocated by Professor Makgoba would be unhealthy for the media. In all likelihood it would promote political bias and be a waste of money.

inquiry

Blood on your hands, white media told

TRC hearing turns harsh spotlight on coverage of apartheid

APR 20/19/97

(252)



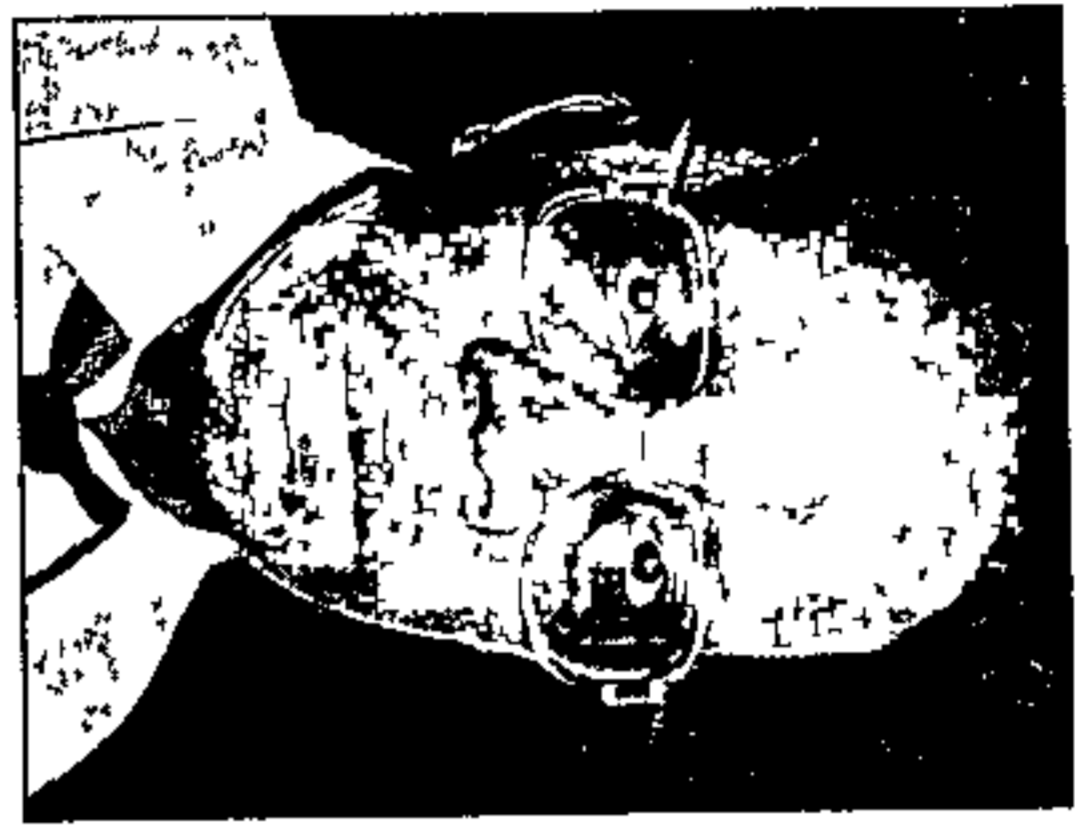
Uncomfortable Max du Preez

Journalist and television producer Max du Preez summed up the feelings of many of those who appeared at the Truth Commission's media hearing when he remarked from the witness chair at the start of his testimony "I'm really not comfortable being here"

His feelings were understandable, South Africa's media glare is usually reserved exclusively for outsiders, and many journalists and media managers have been distinctly ill at ease since the harsh, usually unforgiving spotlight was turned inward.

This introspective process started with the call by Truth Commission chairman Archbishop Tutu earlier this year for submissions from the media, and culminated in the three-day hearing this week at the SABC's Auckland Park headquarters.

There were critics who believed the commission was wasting its time, and that its already limited and overstretched resources should have been devoted to investigating more obvi-



Tension Thami Mazwai

ous perpetrators of gross human rights abuses. But many people disagree - including several members of the Forum of Black Journalists.

One of them was controversial columnist Jon Qwelane, who didn't mince words in his testimony when he accused the former owners of mainstream newspapers of "having blood on their hands"

"I want to charge all the mainstream newspapers - English and Afrikaans - with collusion with apartheid and having a hand, directly or indirectly, in the subsequent murder of tens of thousands of black peo-



'Kaffir paper' Aggrey Klaaste

ple by the apartheid army and police I'm not off my rocker," he told the media hearing.

According to a submission by the Forum of Black Journalists, the established media openly supported the apartheid regime.

Another of the forum's members, respected journalist Aggrey Klaaste, described his experiences on 'The World' newspaper like this "The World was owned by the Argus company which treated the paper with contempt. We were not even a stepchild, we were a 'kaffir' paper. At the offices of the newspaper the resources given were worse than broken down desks and typewriters."

What really stung many black journalists was that they were not trusted or believed when it came to important stories. And when "sanitized" versions of their stories did appear - often re-written by white colleagues to emphasise more the state's version of events - they had to return home to face an angry community



Complaint Johan Pretorius

demanding to know why truth was being censored.

Khaha Mhuzo, who worked for the Natal Witness, said in his statement "It was clear no amount of credibility would deem my first hand reports publishable, since, I believe, to my white superiors, we black journalists were not free from ANC bias. Truths about police behaviour in the townships were treated as exaggerated thummsucks. 'Police can't do that' was the general dismissive censure."

For Mr Qwelane, the newspapers' act of denying their readers information violated a basic human right, and there was therefore no question of the media hearing not falling squarely within the TRC's mandate.

The charges of collusion were rejected by Times Media Limited, formerly SA Associated Newspapers, which published titles like the Rand Daily Mail, Sunday Express (both closed) and the Sunday Times, although they acknowledged past failures and blunders.

"But thanks to a large body of good and honourable journalists operating in a stimulating climate, the company's publications doggedly pursued the goal of seeking the truth - which included the belief that apartheid was morally bankrupt and unworkable."

TML chief operating officer Lawrence Clark told the hearing Independent Newspapers, which acquired the Argus Group in 1993,



Subpoena Doug Band

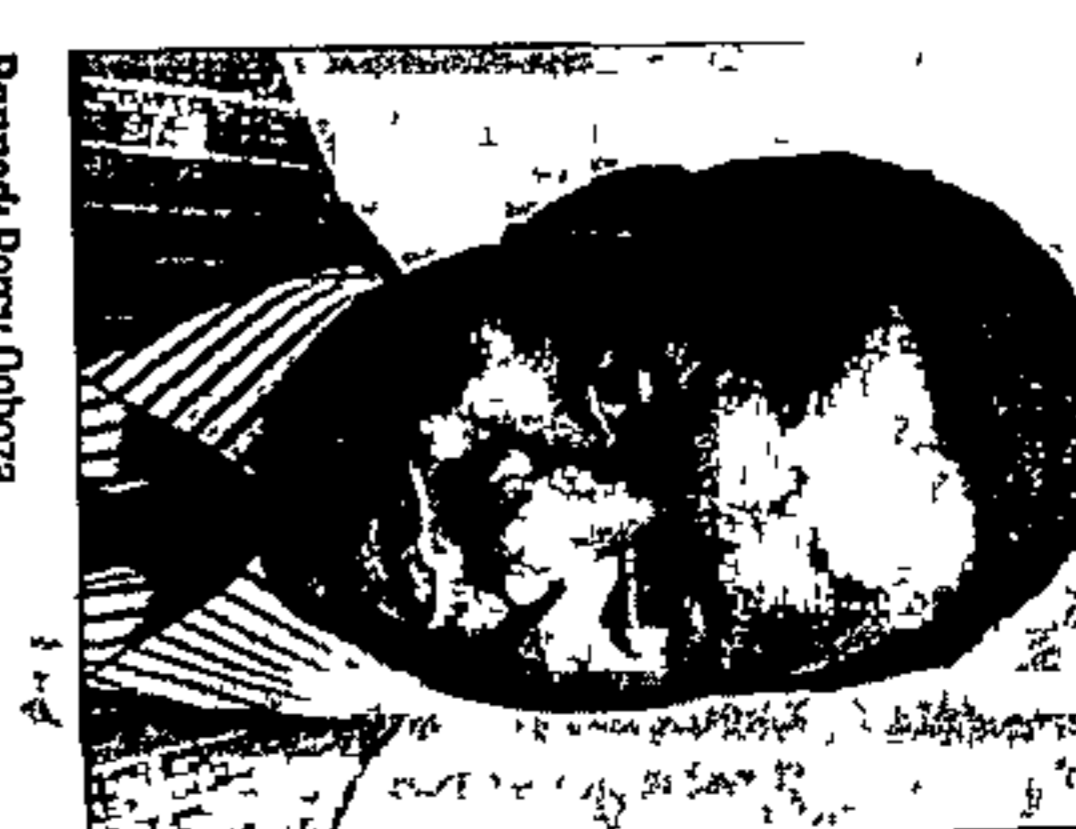
was more circumspect in its analysis in its submission, written by former editor John Patten, the different perspectives of black and white journalists were acknowledged.

"The charge (of collusion with the apartheid government) against the opposition press would seem unfair, viewed from the liberal perspective, but viewed from the perspective of black political aspirations, it is not so far-fetched. Seen that way, the white mainstream press liberal press was praising apartheid with faint damns, and was conniving with apartheid for the sake of perpetuating white privilege into an indefinite future."

Rory Wilson, managing director of Independent Newspapers Cape, said the company acknowledged the courageous stand taken by many editors, journalists and other members of staff. "However, we believe that the mood of the country at this point in its history and the interventions of the TRC are now rightly focused on the injustices and abuses of the past, and what remedial steps have been or should be taken," he told the hearing.

There were some significant gaps in the hearing, including the entire Afrikaans mainstream print media. The panel heard informally that journalists from Beeld had wanted to make submissions, but had been threatened with dismissal.

Apart from Mr Du Preez, who tes-



Banner Percy Doboza

tified about the demerit of his "alter-native" Afrikaans language weekly Vrye Weekblad, the only other submission touching the Afrikaans media was from Arri de Beer, an ex-journalist and currently media lecturer and researcher at Potchefstroom University.

Testifying in his personal capacity, Professor De Beer said he was on first name terms with some National Party cabinet ministers, and could not answer the question about how these leaders could claim they didn't know of atrocities. "It boggles the mind - I cannot understand it," he replied. "It was a question of a mental, psychological and religious turn off. I just cannot see how people in high places could not know, if they had just asked the question."

The Forum of Black Journalists had unsuccessfully appealed to the Truth Commission to subpoena former SABC chief executives Alwyn Seibusch and Wynand Harmsse, former Argus Group chief executive Doug Band and former SAAN and TML chief executive Stephen Mulholand, among others, to testify.

Former editor-in-chief of SABC-TV news, Johan Pretorius, who testified on the first day of the hearing, also complained that the commission wouldn't be getting a full picture.

But despite these shortcomings, the Truth Commission was obviously highly pleased with the hearing.



ON THE TRUTH COMMISSION

ous perpetrators of gross human rights abuses. But many people disagree - including several members of the Forum of Black Journalists.

One of them was controversial columnist Jon Qwelane, who didn't mince words in his testimony when he accused the former owners of mainstream newspapers of "having blood on their hands"

"I want to charge all the mainstream newspapers - English and Afrikaans - with collusion with apartheid and having a hand, directly or indirectly, in the subsequent murder of tens of thousands of black peo-

TRC to subpoena top AINC brass

CP 21/9/97

(252)

BY SIMON ASHLEY

The Transport and General Workers Union (TGWU) has issued a subpoena for the top brass of the Association of Independent National Contractors (AINC) to appear before a tribunal on Monday.

The subpoena, issued by the tribunal, requires the AINC's chief executive, Sir John Gifford, and its chairman, Sir John Gifford, to appear before the tribunal on Monday.

The tribunal is investigating the AINC's alleged involvement in the construction of the Channel Tunnel.

The AINC has denied any involvement in the tunnel project.

The tribunal is also investigating the AINC's alleged involvement in the construction of the Channel Tunnel.

The AINC has denied any involvement in the tunnel project.



MURPHY MORRIS

The AINC has denied any involvement in the tunnel project.

The tribunal is also investigating the AINC's alleged involvement in the construction of the Channel Tunnel.

The AINC has denied any involvement in the tunnel project.

The tribunal is also investigating the AINC's alleged involvement in the construction of the Channel Tunnel.

The AINC has denied any involvement in the tunnel project.

Fury over 'Felgate Files'

CP 21/9/97

(262)

By CHRIS HLONGWA

A FUMING IFP president and Home Affairs Minister, Buthelezi, has instructed his lawyers to stop the Truth and Reconciliation Commission from using documents which former right-hand man Walter Felgate took with him when he defected to the ANC recently.

Buthelezi intends to take the matter as far as the Public Protector and the Constitutional Court.

Dubbed the "Felgate Files", they are now with the Truth Commission which reportedly believes the documents could shed light on gross human rights violations in KwaZulu-Natal.

According to Buthelezi, the documents contain his personal correspondence, political research and public speeches.

"I have been informed that about 20 days ago the TRC subpoenaed and seized my archives compiled by Mr W S Felgate when he was working for me... who was the chief minister of the erstwhile KwaZulu government.

"These archives were left in the possession of Mr Felgate and belong to the office of the chief minister. They contained my personal correspondence, political research and public speeches, none of which has an even remote connection with the only scope of investigation of the TRC, which is that of grave violations of human rights," Buthelezi said in a statement.

"To the best of my knowledge the TRC has not subpoenaed and seized personal archives of John Vorster, PW Botha, FW de Klerk, General Bantu Holomisa, Walter Sisulu, Oliver Tambo, President Mandela, Jacob Zuma and other leaders of the ANC... or political figures and leaders of

other political organisations, who were clearly involved in the conflicts of the past, with private or institutional armies and intelligence departments under their command."

Buthelezi said the documentation was "wrongly removed by Mr Felgate when he abandoned his twenty-year political home to join the ANC without even giving us notice."

Felgate had put the documents into the custody of the Killie-Campbell Africana Library at the University of Natal, apparently for safekeeping. Access by the public to this library is by special permission.

Buthelezi accused the library of breaching an undertaking he said it had made over the documents.

"The Killie-Campbell Africana Library made a written commitment to represent values of the premier of KwaZulu-Natal."

Turn to Page 2

ST 21/9/97

Others testified that the media had blood on their hands.

Testimony to the commission left the impression that newsrooms were littered with informers, while executives hobnobbed with generals

Mike Tissong, night editor of the Sowetan, said his byline was removed from a top story when he worked at The Star and Tseliso Ralitabo, of the Media Workers Union of South Africa, claimed that black SABC journalists were sjambokked for being "cheeky"

The state-owned broadcast media was always the easiest to manipulate. The commission heard that the president appointed the SABC's board and senior staff, like Louis Raubenheimer, head of SABC3, belonged to the Broederbond and attended meetings of Stratcom, a subcommittee of the State Security Council

Senior SABC journalists like Don Briscoe told how they had to submit "sensitive" material, including pictures of black and white people shaking hands, for approval by superiors

In one example of the ludicrous extremes to which intervention went, the commission heard how a travel programme, *Durrell in Russia*, was not screened after former president P W Botha's wife, Elize, objected that it would promote communism

With the national broadcaster in its pocket, the security forces developed a second strategy for the press

State operatives told the commission how they infiltrated newspapers and deliberately misled the public

Craig Williamson, an intelligence officer under McPherson, said journalists were spied on while others were used to ensure pro-government articles received prominence in their papers

McPherson revealed another Stratcom operation in June 1985, when the Sunday Times patriotically welcomed a pre-emptive strike on supposed ANC insurgents in Botswana with the headline "The Guns of Gabarone"

But McPherson admitted that a detailed press release was prepared before the raid in which 13 people, mostly women and children, were killed

The chilling successes of the security forces were made only too clear by Craig Kotze, who confessed this week for the first time to working for the police while he was a crime reporter at The Star

Now the communications adviser to Police Commissioner George Fivaz, Kotze said he had never "deliberately manipulated or suppressed news reports". But it was he who reported for The Star on the 1989 confessions about Vlakplaas made by Dirk Coetzee, the head of the police death squad

The mainstream press carried prominent police denials of the existence of such units and Kotze called his former intelligence colleague "a psychopath"

Tissong also told how he and a fellow journalist at The Star, Rich Mkondo, were not believed when they said student activists on the East Rand had been blown apart by booby-trapped hand grenades in 1985

Last year, Vlakplaas operative Joe Mamasela claimed responsibility for the killings

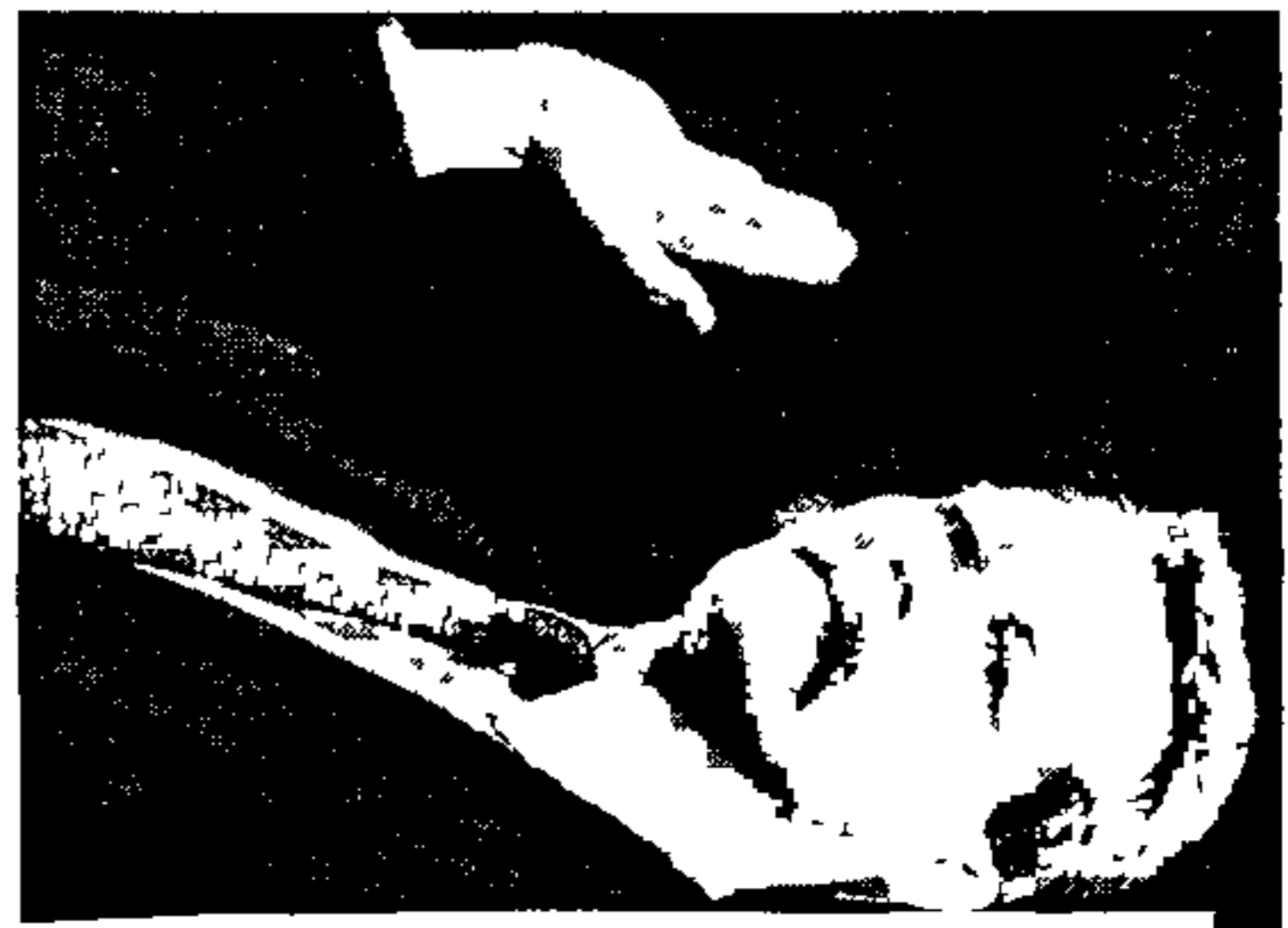
Jon Q elane, editor-in-chief of Ma-
fube P. rications, charged the main-
stream media with colluding with apart-
heid
Both police and soldiers in the name
of laughter is on the hands of the
owners, he said
or three months when he refused
to enter at the pass office, said black
activists received inferior training,
denied promotion and were forced
to separate amenities
However, many witnesses, including
one who defended the media, particu-
larly English newspapers and indepen-
dent publications such as Vrye Week-
blad and the Week Mail, which they
dedicated for operations in and
covert operations, such as the Civil Co-
operation Bureau
In their submissions, Times Media
admitted they had not done enough to
show the evils of apartheid and apol-
ogised for any violations of human
rights they committed
However, Lawrence Clark, TML's
chief operating officer, said "We have a
proud history of keeping the South
African public informed and of support-
ing the cause of human rights and
justice in South Africa"
Clark spoke of editors who were
banned or were prosecuted, and of legal
teams which worked hard to find
loopholes in the system
McPherson has applied for amnesty
for his role in the bombing of the ANC's
London office in 1982



SPIED. Intelligence agent Craig Williamson told of media operations

Blood on the walls of the fourth estate

Damning details of the media's manipulation by and collusion with the apartheid state emerged before the Truth and Reconciliation Commission this week, reports CELEAN JACOBSON



THOUGHT POLICE: Former reporter Craig Kotze Pictures: BRETT ELOFF

Felgate appears before commission

Farouk Chothia (252)

DURBAN — Inkatha Freedom Party (IFP) leader Mangosuthu Buthelezi's former close confidant, Walter Felgate, had appeared before the truth commission last week and was expected to do so again in the next two weeks, commissioner Richard Lyster said yesterday.

He said the commission had seized documents that Felgate had stored at Natal University but most of them were to be returned to him because they were "irrelevant" to the inquiry.

"We are keeping a very small percentage of them, and they will be part of our continuing investigations into human rights violations," Lyster said.

Buthelezi claimed at the weekend that the documents, which included memos he had written to Felgate, belonged to him.

The cause of reconciliation could be "destroyed forever" through the commission's decision to seize them.

It was understood that the commission would question Felgate on the role he and other IFP leaders played in paramilitary training.

DD 22/9/97

Journal

Source: 23/9/97

252

come clean

FORMER Port Elizabeth security police chief General Gerrit Erasmus yesterday admitted having ordered the 1982 abduction and murder of student leader Siphwo Mzimkulu, saying he feared imprisoning the activist would spark widespread revolt

Erasmus said the "elimination" order included Mzimkulu's close friend and fellow activist Topsy Madaka, who was also viewed as a trouble maker whose detention would cause problems for the police

The retired general is seeking amnesty for the two murders along with three other former security policemen - General Nic van Rensburg, Colonel Gideon Nieuwoudt and Colonel Herman du Plessis

Erasmus is the most senior security force officer to have appeared before the Truth and Reconciliation Commission's amnesty committee so far

Testifying before the committee in Port Elizabeth yesterday, Erasmus said his decision to kill the two activists still haunted him, 15 years later

"I tried to get (it) right out of my system, but it constantly came back to me I am relieved that the amnesty process has given me the opportunity to get it off my conscience so the

with sleeping pills on the night of April 15 When they fell asleep he shot one of them, thought to have been Madaka, behind the ear with a .32 pistol Van Rensburg then shot the second activist



Former security police chief General Gerrit Erasmus (left) and Colonel Gideon Nieuwoudt are seeking amnesty from the TRC for the murders of Siphwo Mzimkulu and Topsy Madaka.

PIC LEON MULLER

families will be able to know what happened to their loved ones," he said

In their amnesty applications, Erasmus's former colleagues said Mzimkulu and Madaka were abducted near the Port Elizabeth Holiday Inn on April 14 1982 and taken to an abandoned police station close to Cradock

They were interrogated on the evening of April 14 as well as the following day. In his application, Nieuwoudt said he gave the two coffee spiked

Nieuwoudt said the bodies were placed on a pyre of wood and doused with diesel The policemen repeatedly fed the fire with more wood and diesel over a period of six hours

Nieuwoudt said he used a rake to smash the activists' burnt remains into little pieces which were put into a black plastic bag and thrown into the

Fish River Erasmus told the committee he arrived at the decision to kill the activists after several conversations with Van Rensburg and Du Plessis over a two-week period prior to April 14

At the time Port Elizabeth was a "seriously destabilised flashpoint", with boycotts, intimidation and destruction of property. The National Party government exerted more and more pressure on the security police to resolve the situation, he said "We were told to try and weaken



Flashback - Siphwo Mzimkulu's mother Joyce, his father Siphwo and sister Valentia hold a vigil on the bank of the Fish River into which his remains were thrown

PIC LEON MULLER

the power bases of the revolutionary organisations"

As a leading member of the Congress of SA Students, Mzimkulu had played a key role in mobilising the youth and recruiting students for military training abroad

at the time of his release from prison. Mzimkulu was unable to walk, had lost weight and was vomiting frequently Erasmus said Mzimkulu's ill-health was one of the reasons police were reluctant to arrest him

"We came to the conclusion that if we tried to detain him again, that would lead to widespread unrest There was no other way other than to eliminate these people" - Sapa

NP drops its legal action against TRC

Winnie wants probe postponed

(252)
BY ROBERT BRAND

Star 23/9/97

The National Party has dropped its legal action against the Truth and Reconciliation Commission following talks between new NP leader Marthinus van Schalkwyk and TRC chairman Archbishop Desmond Tutu yesterday.

The settlement opens the way for the NP, which suspended its cooperation with the TRC under F W de Klerk, to participate in future commission activities.

The NP accepted apologies from Tutu and his deputy, Dr Alex Boraine, for their public criticism of a submission made on behalf of the NP by De Klerk in May.

The NP and De Klerk applied to the Cape Town High Court for an interdict ordering Tutu to apologise, Boraine to resign and the TRC's chief investigator, Glenn Goosen, to be withdrawn from all future investigations involving the NP. Western Cape Judge President Gerald Friedman postponed the case earlier this month after ordering the parties to try to reach a settlement. - Staff Reporter

ANC women's league president Winnie Madikizela-Mandela's lawyers have indicated to the Truth and Reconciliation Commission that they would like a postponement of the in-camera inquiry due to be heard on Thursday.

Madikizela-Mandela was subpoenaed last week to appear before the TRC in an in camera hearing relating to 18 human rights violations, including murder, at the commission's Johannesburg's office.

The Section 29 inquiry will see Madikizela-Mandela, who was nominated by the women's league for ANC deputy president last week, having to answer questions relating to allegations made against her by victims and amnesty applicants. She had earlier said that she wishes to have the hearings in public so that she can clear her name.

TRC spokesman John Allen confirmed today that head of the investigations, Dumisa Ntsebeza,

will hear arguments from Madikizela-Mandela's lawyers for a postponement on Thursday.

Madikizela-Mandela's lawyers said at the weekend they would apply for a postponement of the inquiry because they had not been given sufficient details of the investigation against her. Madikizela-Mandela will have to appear in person before the TRC inquiry on Thursday even if she wants to apply for a postponement, the commission said yesterday.

If she refuses to appear, she could be charged under TRC legislation that provides for a fine of up to R2 000 or two years' jail, TRC investigations head, Dumisa Ntsebeza said.

It is understood that the investigation includes cases of abduction, assault and murder. Among the cases against Madikizela-Mandela is testimony gathered from the mother of murdered teenage activist Stompie Seipei. The family of Dr Abu-Baker Asvat has also supplied information to the TRC regarding his murder in 1989.

I ordered Cosas killing, Erasmus tells committee

23/9/97

(252)

PORT ELIZABETH — Former police district commissioner Gen Gerrit Erasmus told the truth commission's amnesty committee yesterday he had ordered the 1982 killing of Congress of SA Students' leader Sipho Mthimkulu as detaining the poisoned Port Elizabeth activist again would have sparked a riot.

Erasmus appeared before the commission in connection with the death of Mthimkulu and his friend Topsy Madaka, abducted from Port Elizabeth's Livingstone Hospital by security police in April 1982 and shot in the back of the head at their Post Chalmers torture chamber near Cradock. The bodies were burnt and the remains dumped in the Fish River.

The University of Cape Town's Prof Frances Ames diagnosed thallium poisoning after an earlier spell in detention by Mthimkulu, who had been taken to the hospital for treatment that day by Madaka.

Applying for amnesty with Erasmus are Gen Nicholas van Rensburg, Maj Hermanus du Plessis and retired Lt-Col Gideon Nieuwoudt who has been convicted of the 1989 Motherwell bombing.

Erasmus said he had spoken to ex-Prime Minister Hendrik Verwoerd in the 1960s and had told him "I could not fight communism by using the Queensberry Rules and

Verwoerd agreed with me and told me I had a free hand to suppress communism"

He described Port Elizabeth township clashes between police and boycotting pupils as having a "high profile".

"There was pressure from the government, the department, politicians, and growing expectations from the public. There were public interests being served that we address and control the situation."

Erasmus said he had given the instructions to kill at a meeting on April 14 1982. Mthimkulu, he said, had grown in stature after the poisoning allegations — which Erasmus denied — to become "a very important person".

"We came to the conclusion that the head office would not sanction his redetention because of the possible reaction of other students. Our final conclusion was there was no other way but to eliminate these people."

"This is not something you do lightly. I am not a murderer — I tried to get this decision out of my system for years."

Asked if he gave the instructions to kill in his personal capacity, Erasmus replied. "As I saw it at that stage, I gave the instruction in the execution of my duty and at that time I firmly believed I was correct. My purpose was to break the power base around these two people" — ECN.

NP will drop its case against truth body'

Jacob Dlamini

CAPE TOWN — The National Party (NP) is to withdraw its court action against the truth commission and drop its demand for the resignation of commission deputy chairman Alex Boraine after the two parties reached a settlement yesterday.

NP leader Martinus van Schalkwyk said the legal dispute between the NP and the commission in the Cape High Court had been resolved.

The settlement followed an apology by commission chairman Archbishop Des-

mond Tutu for his public criticism of the evidence given by former NP leader FW de Klerk in May. Van Schalkwyk said in terms of the settlement, Boraine associated himself fully with Tutu's apology. Boraine, who was not present at the talks which resulted in the settlement, extended an apology to De Klerk and to the NP for his criticism of their submission to the commission.

The body also acknowledged that its criticism of the NP reflected poorly on its objectivity and impartiality.

Van Schalkwyk said he would meet Tutu to discuss future co-operation.

M
a
kr
U
wi
So
mi
ter
wh
19
Se
sor
clu
his
all
tio
has
wa
tru
pub
quo
Sun
nee
part

Top general tells why he ordered 'martyr' Mtimkulu's death

Port Elizabeth - Retired security police general Gerrit Erasmus told the Truth Commission he ordered the abduction and "elimination" of prominent Eastern Cape student activist Siphiso Mtimkulu in 1982

Asked by his counsel, Louis Visser, what he meant by "elimination", he replied, "Kill"

Loud murmurs and gasps of disbelief greeted the testimony of General Erasmus, who headed the

JOHN YEID



ON THE TRUTH COMMISSION

Eastern Cape's security branch at the time, when he told the commission's amnesty committee yesterday he had no knowledge of the

poisoning of Mtimkulu in detention a few months earlier.

Mtimkulu became critically ill after his release in October 1981 and was eventually found at Groote Schuur Hospital to have thallium poisoning. He and his friend, Topsy Madaka, disappeared a few months later.

General Erasmus, the highest-ranking policeman yet to apply for amnesty, is one of four former Eastern Cape security policemen seeking amnesty for the abduction

and murder of Mtimkulu and Madaka. The others are General Nic van Rensburg, then a lieutenant-colonel, Lieutenant-Colonel Gideon Nieuwoudt, then a warrant officer, and Colonel Hermannus du Plessis, then a captain.

They all admit to a role in abducting the two activists outside a hotel, taking them to the disused police station at Post Chalmers near Cradock, interrogating them, feeding them coffee spiked with sleeping tablets and

kill them with single shots to the head before burning their bodies and dumping the remains in the Fish River

Testifying yesterday before several hundred people in the Centenary Hall in New Brighton here, General Erasmus said he had been aware Mtimkulu had instituted a civil claim against the minister of police for R150 000 damages after being poisoned with thallium in police cells at Jeffreys Bay

After his release and the wide-

spread news of his poisoning, Mtimkulu acquired the stature of a martyr.

Gen Erasmus said he and his colleagues came to the conclusion that security police headquarters would not sanction the further detention of Mtimkulu because he was still sick from the poisoning. Also, it would have caused "large-scale unrest"

Asked how he felt about giving the order to kill the man, General Erasmus said it haunted him.

(252) ARLG 23/9/97

Tutu and Boraine say sorry to FW

NP's battle with TRC over 'bias' is settled out of court

APR 23/9/97 (252)



Truth at last: Joyce Mtshkulu, mother of student activist Siphiwo Mtshkulu

'I shot doped activist'

Port Elizabeth - A single shot behind the ear with a .32 pistol ended the drugged young activist's life.

But the man who pulled the trigger, Eastern Cape security policeman Gideon Nieuwoudt, wasn't quite sure which one of his two prisoners he had shot - Siphiwo Mtshkulu or Topsy Madaka.

Nieuwoudt is on bail pending an appeal against a 20-year jail sentence for his role in the Motherwell car-bomb murder.

He is also one of four former security policemen applying for amnesty for the abduction and murder of Mr Mtshkulu and Mr Madaka.

He states in his amnesty application that he helped abduct the two activists from Port Elizabeth and drive them

to the disused Post Chalmers police station near Cradock, arriving late at night.

After interrogating them that night and the next day, Nieuwoudt said he made them coffee containing sleeping pills. "They drank the coffee and soon thereafter fell asleep."

"I shot the one dead by shooting him behind the ear with a 32 pistol. At this stage I'm not sure but I assume it was Topsy Madaka."

"Lt-Col Van Rensburg shot the other person."

Nieuwoudt said they placed the two bodies on a pile of wood, poured diesel fuel over them and set them alight. "We had to put more wood and diesel on many times. After about six hours, we had reduced the bodies to ash."



Killers: retired security police general Gerrit Erasmus and Colonel Gideon Nieuwoudt testify at the amnesty hearings

Port Elizabeth - The High Court battle between the Truth Commission and the National Party over the commission's alleged bias has been settled out of court.

The settlement announced yesterday includes personal apologies from commission chairman Archbishop Tutu and his deputy, Alex Boraine, to former NP leader F W de Klerk for publicly criticising his evidence at a commission hearing for political parties in May.

Archbishop Tutu and Dr Boraine made critical remarks about Mr De Klerk's testimony and the NP applied to the Cape High Court for an interdict to compel the commission and Archbishop Tutu to act impartially, and to force Dr Boraine to resign because of alleged bias.

When the application was called in court earlier this month, the commission's legal team read into the record a letter from Archbishop Tutu, who was in the United States for medical treatment, saying he apologised to Mr De Klerk for criticising his testimony. Judge President Mr Justice Gerald Friedmann appealed to the parties to reach an out-of-court settlement. The NP responded that it was unable to do this, but would talk to Archbishop Tutu on his return.

New NP new leader Marthinus van Schalkwyk met Archbishop Tutu last week.

In terms of the settlement, Dr Boraine associates himself with the sentiments expressed by Archbishop Tutu in his letter and apologises to Mr De Klerk and the NP. "The Truth Commission acknowledges, and is deeply concerned at the perception, that such public criticism and conduct reflected negatively on its objectivity and impartiality," the settlement states.

Both sides agreed to pay their own legal costs.

LEON MULLER

PW 'must have known about deaths'

Retired cop tells the TRC he ordered the killing of two student activists in 1982

FORMER STATE PRESIDENT Mr PW Botha must have known about the security police's "elimination" of troublesome activists who posed a threat to the government, retired police General Gerrit Erasmus said yesterday.

"I am still under the impression that politicians had to know - they were aware of what was going on," Erasmus said.

He said the government had placed tremendous pressure on the security police to stabilise the deteriorating security situation.

Erasmus is seeking amnesty for the murders of Eastern Cape student leader Siphwe Mthimkulu and fellow activist Topsy Madaka in 1982.

The two activists were abducted near a Port Elizabeth hotel and then shot dead. Their burnt remains were thrown into the Fish River.

Testifying before the Truth and Reconciliation Commission's amnesty committee in Port Elizabeth, Erasmus said he believed Botha, who chaired the state security council, knew of human rights abuses committed by the police.

The lawyer for the Mthimkulu and Madaka families, Mr Justice Poswa, asked him "Was the state president aware of the need to elimi-

nate troublesome revolutionaries?"

"I think that was the case," Erasmus replied.

Earlier yesterday he testified that Mthimkulu and Madaka had been killed to safeguard the National Party government.

He confirmed ordering the killings but denied suggestions that his decision had been influenced by a R150 000 civil suit brought against the police by Mthimkulu before his death.

Revolutionary onslaught

Erasmus' task had been to keep the NP government in power and to counter the revolutionary onslaught which threatened to overthrow it.

"What we did, we did it exclusively to safeguard the government of the day," he said.

Mthimkulu and Madaka disappeared in April 1982 after Madaka had fetched his friend from his home to join him to Port Elizabeth's Livingstone Hospital.

The retired general is seeking amnesty for the two murders along with three other former security policemen - General Nic van Rensburg, Colonel Gideon Nieuwoudt and Colonel Herman du Plessis - *Sapa*

Sowetan

24/9/97

252

Winnie ordered to attend TRC inquiry

(252) Star 24/9/97

Madikizela-Mandela's legal team told to get her to hearing this weekend after they 'renege' on an earlier agreement'

By Robert Brand

The Truth and Reconciliation Commission has laid down the law to Winnie Madikizela-Mandela, telling her lawyers she has to appear personally before an investigative inquiry on Friday.

If the lawyers wanted a postponement, they would have to argue their case in public before the commission, TRC chairman Archbishop Desmond Tutu said yesterday.

This follows a dispute between Madikizela-Mandela's lawyers and the commission about the dates on the subpoena served on her.

The subpoena mistakenly ordered Madikizela-Mandela to appear at the TRC's Johannesburg offices on Friday and Saturday instead of Thursday and Friday, the days originally set aside for the inquiry.

Madikizela-Mandela's lawyers agreed last week to ignore the dates on the subpoena and present their client for questioning on Thursday. However, they have since renege on the agreement.

"The commission has . . . advised Madikizela-Mandela's lawyers that, as a result of them disputing the terms of a verbal agreement reached last week, the commission will schedule the inquiry for Friday September 26 and Saturday September 27, as is set out in the subpoena served upon her,"

the statement said.

Madikizela-Mandela's lawyers have asked the commission for a postponement, saying they had not been given sufficient time to study details of the allegations against Madikizela-Mandela.

But the TRC said they would have to argue for a postponement in public when the inquiry starts on Friday.

"Should lawyers wish to argue for a postponement, the commissioners will first hold a

“
Not a hearing involving other witnesses
”

public hearing to hear the arguments. The media could cover such a session."

"The commissioners will make a decision on any application for a postponement on the merits and after hearing argument. Should a postponement be refused, the inquiry will proceed immediately.

"The inquiry involves only Madikizela-Mandela being questioned by commissioners and staff. It is not a hearing involving other witnesses. In

terms of the provisions of the law governing TRC investigations, it will be held in camera," the statement said.

Madikizela-Mandela may be given a chance later to testify in public, the commission said.

The commission's human rights violations committee may call a public hearing, or Madikizela-Mandela may be required to testify in public at amnesty hearings involving former members of her "soccer club", some of whom have applied for amnesty for gross violations of human rights.

Former members of the "soccer club" have applied for amnesty for murder and assault. The death of teenage activist Stompie Sepei and Soweto's Dr Abu-Baker Asvat are believed to be among the cases in which Madikizela-Mandela has been implicated.

■ AFP reports that Stompie's mother wants compensation for the 1988 killing.

Joyce Sepei, said she wanted money from Madikizela-Mandela for her son.

"I do not want to profit out of my son's death, but deserve compensation," she said. Stompie's peers who left the country to join the ANC's military wing were now working as soldiers. "I have nothing," she said.

In May 1996, Sepei asked the TRC for compensation for Stompie's murder but made no mention of payments from Madikizela-Mandela.



LEON MULLER

Solidarity: supporters of Siphwo Mtshkulu at the commission hearing in Port Elizabeth

Killings 'haunt' police general

Death order 'unfortunate'

JOHN YELD
ON THE TRUTH COMMISSION

Port Elizabeth - A former security police general agreed that his decision to "eliminate" activist Siphwo Mtshkulu days after he instituted a damages claim against the police was "an unfortunate coincidence".

Gerrit Erasmus also conceded at a Truth Commission amnesty committee hearing yesterday that a public investigation by a magistrate into Mr Mtshkulu's alleged torture and assault in detention had been scheduled for a day just three weeks after he ordered Mr Mtshkulu's abduction and murder by three junior officers.

General Erasmus, then head of the security police in the Eastern Cape and the highest ranking policeman yet to apply for amnesty, agreed that Mr Mtshkulu's allegations about being poisoned with thallium - a form of rat poison - while in detention would have been "highly embarrassing and highly dangerous" for his unit.

But he denied ordering the killing of Mr Mtshkulu and his friend Topsy Madaka to prevent Mr Mtshkulu from

testifying about his alleged torture and poisoning at the hands of security police.

General Erasmus, General Nic van Rensburg, then a lieutenant-colonel who was head of the security police trade union section, Lieutenant-Colonel Gideon Nieuwoudt, then a warrant officer, and Colonel Hermanus du Plessis, then a captain and head of the security police black affairs section, are applying for amnesty for the abduction and

murder of Mr Mtshkulu and Mr Madaka.

General Erasmus told the committee again that the murders haunted him. He had even resigned as an elder of his church after ordering the murders. "It was debilitating for me as a person. You try to put it behind you but it is not possible, it is always there," he said.

He conceded to Judge Wilson that he was also applying for

amnesty for ordering the murder of a third activist, Sizwe Kondile, just a few months before those of Mr Mtshkulu and Mr Madaka.

He also said he had not referred alleged illegal acts by Mr Mtshkulu to the attorney-general before deciding himself that no legal action would be successful and it was therefore necessary to kill him.



Application: Nic van Rensburg

(262)
AUG 24/9/97

Retired general tells truth commission how he murdered activists

PORT ELIZABETH — Retired police general Nic van Rensburg admitted before the truth commission executed two anti-apartheid activists in 1982 that he and a colleague executed two Van Rensburg and Topsy Madaka were abducted from outside a hotel in Siphiso Mtshali and taken to a disused police station where they were interrogated and given coffee spiked with sleeping tablets.

Van Rensburg and Topsy Madaka were abducted from outside a hotel in Siphiso Mtshali and taken to a disused police station where they were interrogated and given coffee spiked with sleeping tablets. When they fell asleep, Col. Gideon Nieuwoudt, who is serving a 20-year jail term, is also applying for amnesty for eight other killings, including the 1977 death in police detention of Black Consciousness leader Steve Biko.

Van Rensburg admitted to lying later about the murder to the Cape Commission of Inquiry and to the High Court last year in an application to gag temporarily Mtshali's mother. He brought the court action to stop Joyce Mtshali from implicating him in her son's murder at the commission's first human rights violations

hearing in East London last April. At that stage, he said, he had not yet applied for amnesty and wanted to protect his interests.

In the false statement in 1990 he had the Harms personal involvement in Mtshali's death. He had done this to protect the National Party government, he said.

Van Rensburg's testimony was also overshadowed by a series of incidents. First, an unidentified man managed to evade police and walk onto the stage in the Centenary Hall where Van Rensburg was testifying. The small, grey-haired man was apprehended by police and bundled out of the hall. Officials said he would not identify himself and appeared confused. Later, as Van Rensburg was killed, Mtshali's teenage son, Sikhumbuzo, suffered an apparent fit and had to be carried from the hall. His sister, Aleuta, also broke down and was comforted by officials — Sapa-AFP

'We killed activists'

Retired cop confesses to murders at TRC hearing

Sowetan 25/9/97

252

RETIRED policeman General Nic van Rensburg admitted before the Truth and Reconciliation Commission yesterday that he and a colleague had executed two anti-apartheid activists in 1982.

Van Rensburg said student leaders Siphwo Mtshuku and Topsy Madaka were abducted outside a hotel in Port Elizabeth in April 1982. They were taken to a disused police station where they were interrogated and then given coffee spiked with sleeping tablets.

When they fell asleep Van Rensburg and his colleague, Colonel Gideon Nieuwoudt, took them outside and executed them by shooting them in the head.

Van Rensburg said he killed Mtshuku with a single shot behind the ear.

The bodies were placed on a pile of firewood, doused with diesel and set alight. They burnt for six hours. The remains were raked up by Nieuwoudt, who then dumped them in the nearby Fish River.

As Van Rensburg was giving his testimony, Mtshuku's teenage son, Sikhumbuzo, broke down and wept, and then collapsed. He had to be carried from the hall.

His sister Aleuta also broke down and was comforted by TRC officials.

Van Rensburg and Nieuwoudt are among four former security police officers applying for amnesty.



Gideon Nieuwoudt

for the murder of Mtshuku and Madaka. The commission, which is probing human rights abuses during the

apartheid era, is obliged to grant amnesty to applicants provided they can prove a political motive and make a full confession.

Nieuwoudt, who is serving a 20-year jail term, is also applying for amnesty for eight other murders, including the 1977 death of black consciousness leader Steve Biko in police detention.

Van Rensburg also admitted lying in an application to the Cape High Court last year to temporarily gag Mtshuku's mother from testifying.

He brought the court action to stop Mrs Joyce Mtshuku from testifying at the TRC's first human rights violations hearing in East London last April.

In the application Van Rensburg

and Brigadier Jan du Preez said they wanted tenuous notice of the TRC's intention to hear evidence implicating them in Mtshuku's death.

Testifying before the amnesty committee yesterday, he admitted he had lied in a sworn affidavit which formed part of the application.

At that stage he had not yet applied for amnesty and wanted to protect his interests.

Van Rensburg also admitted having lied to the Harms Commission of Inquiry in 1990 when he denied any knowledge of Mtshuku's death.

He said he made the false statement to protect the security police and the National Party government.

- Sapa

NEWS

VAN RENSBURG APOLOGISES

Retired general admits to misleading court

ET 25/9/97

PORT ELIZABETH: THE former security policeman who executed student activist Siphiso Mtimkulu admitted yesterday that he had lied to the Harms Commission in 1990 about the death.

RETIRED security police General Nic van Rensburg admitted yesterday that he executed Eastern Cape student leader Mr Siphiso Mtimkulu in 1982 after drugging him with spiked coffee, and later lied about the murder to the Harms Commission.

Testifying before the Truth and Reconciliation Commission's (TRC) amnesty committee, Van Rensburg also admitted lying in an application to the Cape High Court last year to temporarily gag Mtimkulu's mother.

He brought the court action to stop Mrs Joyce Mtimkulu from implicating him in her son's murder at the TRC's first human rights violations hearing in East London last April.

At that stage, he said, he had not yet applied for amnesty.

In the false statement he made to the

Harms Commission in 1990, he had denied personal involvement in Mtimkulu's death to protect the security police and the NP government, he said.

Yesterday, Van Rensburg told of his role in the abduction and murder of Mtimkulu and fellow activist Mr Topsy Madaka.

He is seeking amnesty for the killings with three other former security policemen — General Gerrit Erasmus, Colonel Herman du Plessis and Colonel Gideon Nieuwoudt.

Later, as Van Rensburg told how Mtimkulu and Madaka were killed, Mtimkulu's teenage son Sikhumbuzo suffered an apparent fit and had to be carried from the hall.

His sister Aleuta also broke down. A lawyer for the applicants was then heard to remark "Fifteen years later and they

are finally crying for the first time."

When confronted by journalists later, lawyer Mr Francois Van der Merwe indirectly admitted to having made the remark.

"I could have said it. I am not denying it. At that stage it was a very emotional moment for the family, but at the same time also for my clients. I did not have any intention to denigrate or belittle. If I did hurt anybody's feelings, I offer an unreserved apology."

Mr Bond Nyoka, the Mtimkulu and Madaka families' attorney, said the policemen's legal team had apologised after he approached them. "We have resolved it amicably. Nevertheless, such statements are unconscionably reckless."

Testifying earlier, Van Rensburg said Mtimkulu and Madaka were taken to a disused police station near Cradock after they were abducted outside a Port Elizabeth hotel on April 14, 1982.

There they were interrogated and given spiked drinks. Van Rensburg then shot Mtimkulu behind the ear and Nieuwoudt shot Madaka. "I am sorry today," Van Rensburg said — Sapa

● See Page 8

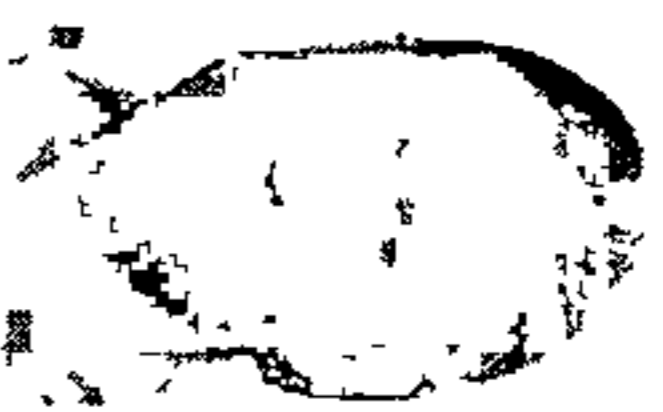


Ex-security police general admits to perjury

False statement made to Harms Commission about death of activist

(262)

BY
YELD



ON THE TRUTH COMMISSION

Port Elizabeth - A former security police general applying for amnesty for 11 murders has confirmed he lied to the Harms Commission into state-sponsored killings and to the Cape High Court.

Nic Janse van Rensburg is appearing at an amnesty hearing here with three former colleagues for the abduction and murder of Eastern Cape activists Siphiwo Mthimkulu and Topsy Madaka in 1982 when he was head of the Eastern Cape security police's trade union section.

The others are Gerrit Erasmus, then head of the Eastern Cape security police, Gideon Nieuwoudt and Hermanus du Plessis, then head of the security police black affairs section.

General Van Rensburg is also applying for amnesty for perjury at the 1990 Harms Commission when he made a false statement denying any knowledge of Mr Mthimkulu's death.

Yesterday, he told the Truth Commission's amnesty committee he shot a drugged Mr Mthimkulu behind the ear with his service pistol, which he still had.

He said that he lied to the Harms Commission "to protect myself".

General Van Rensburg said he also lied in his affidavit in support of the application by himself and retired policeman Jan du Preez for an interdict against the Truth Commission last year.

The interdict, restraining the commission from hearing evidence about



Family bond: Joyce Mthimkulu, mother of slain activist Siphiwo Mthimkulu, with her grandchildren Aliza and Sikumbuzo at the Port Elizabeth hearing

the two in connection with Mr Mthimkulu without giving them notice and access to documentation, was granted but overturned on appeal.

Yesterday's amnesty proceedings were delayed briefly when Mr Mthimkulu's teenage son Sikumbuzo broke down at hearing General Van Rensburg describe the shooting his father and how the bodies of the activists were sprinkled with diesel and set alight on a pyre of logs and branches.

Sikumbuzo collapsed on to the floor and had to be carried off.

His sister Aleuta and grandmother Joyce, mother of Mr Mthimkulu, wept and were assisted by Truth Commission staff.

Earlier, there was a brief security scare when an unidentified man went on to the stage and got within two metres of the amnesty applicants and their legal representatives before being stopped by a member of the commission's witness protection programme.

The man, who appeared mentally disturbed, was escorted from the hall by policemen.

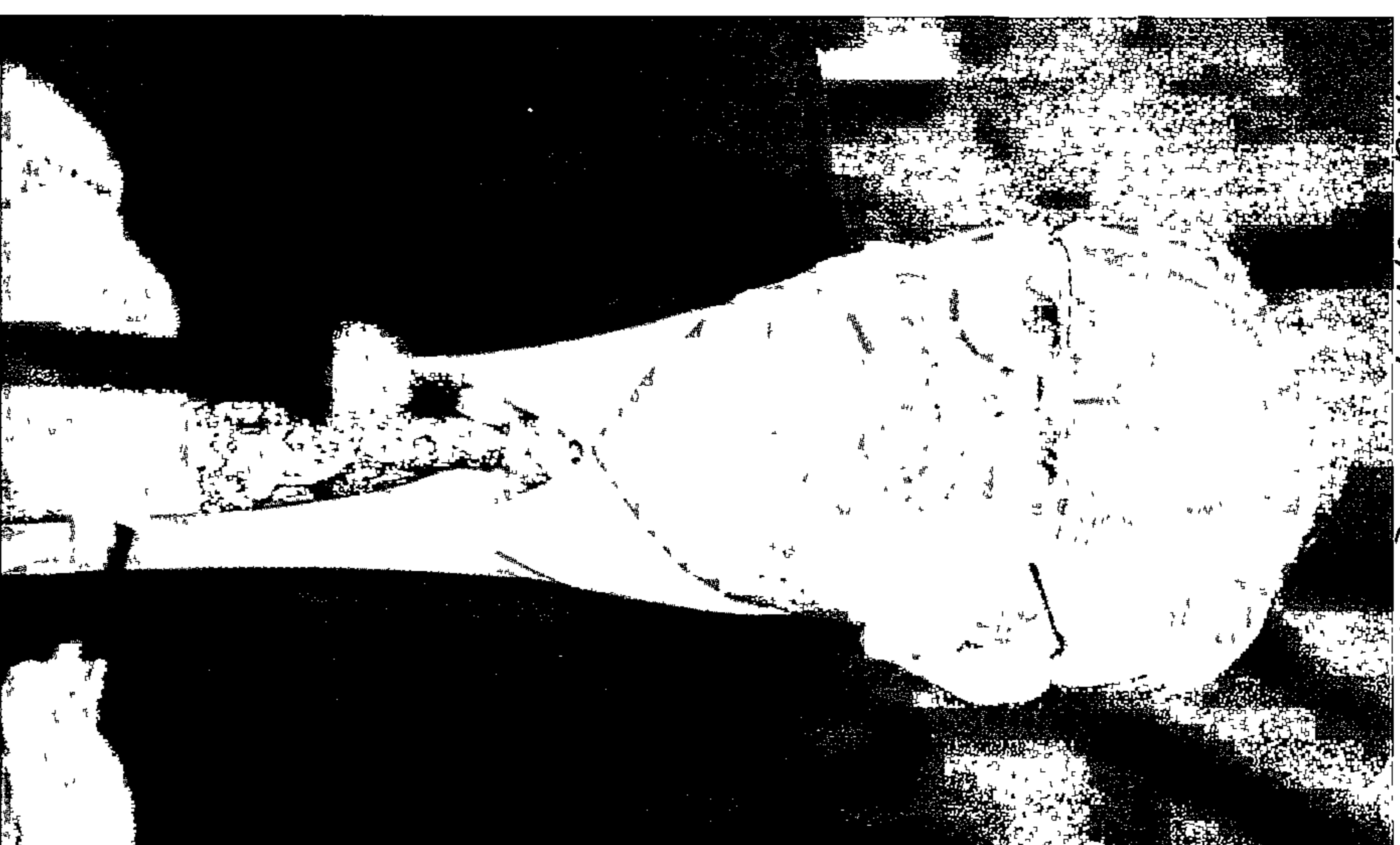
During his testimony General Van Rensburg confirmed that the term "elimination" had been used at meetings of the National Management System, run by the State Security Council.

Asked by his counsel, Kobus Booysens, what he understood by this, he replied: "For me, it means a person must be killed."

Minutes of a combined Safety

Committee-Joint Intelligence Commission meeting he attended in October 1982 were submitted in support of his answer.

General Van Rensburg, who confirmed yesterday he was the senior officer of Vlakplaas commander Eugene de Kock in 1989 and 1990, has also applied for amnesty for the murder of Eastern Cape activist Sizwe Kondile in 1981, the 1989 Motherwell car-bombing and the 1985 murder of Matthew Goniwe and three colleagues from Cradock.



Plea: former security police general Nic Janse van Rensburg is applying for amnesty

ARGUS 25/9/97

Doing the rainbow jive



ANDREW INGRAM

Celebrating South Africanness: the Sunshine Entertainers dance with visitors at the Castle yesterday More Heritage Day pictures, page 3

ARC 25/9/97

TRC attorney's slur caught on tape

JOHN YELD

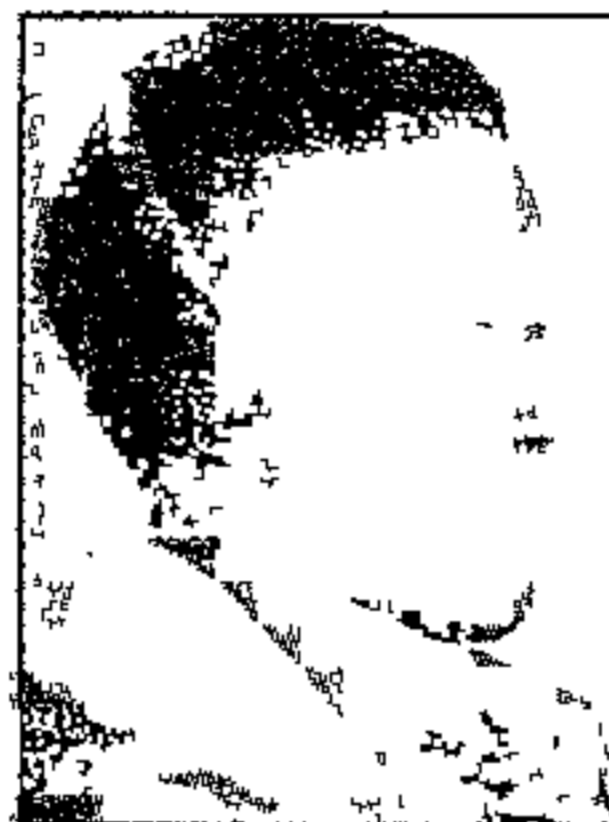
ON THE TRUTH COMMISSION

Port Elizabeth - An insensitive remark by an attorney appearing for former security policemen at the Mtimkulu amnesty hearing was caught on tape by SABC radio staff.

The remark, which was clearly not intended for public consumption, was made when the two teenage children of Siphiso Mtimkulu, murdered in 1982, broke down yesterday while hearing details of his death from the man who shot him, Nic Janse van Rensburg

The attorney, identified by journalists from his voice as Francois van der Merwe, was heard to say in Afrikaans "Fifteen years later and now they are f... crying for the first time"

The remark was recorded by radio



In tears: Mtimkulu's son Sikhumbuzo



Apologised: attorney Francois van der Merwe

journalists who take direct "sound-feeds" from the sensitive microphones used at Truth Commission hearings

Confronted by journalists, Mr Van der Merwe indirectly acknowledged making the remark, saying he did not

deny it had been made by him

"I think that at that stage, it was a very emotional moment in the hall, specifically for the family and their relatives, but at the same time, and equally, also for my clients," he said

"I didn't intend to belittle or to be snide and if I did hurt anyone's feelings, I offer my unreserved apologies"

Bond Nyoka, the attorney for the families of Mr Mtimkulu and his friend Topsy Madaka, who was murdered with him, confirmed later that he had confronted the amnesty applicants' legal representatives about the remarks.

"Such statements are unconscionably reckless in the extreme," Mr Nyoka said. However, the matter had been resolved amicably

I lied to judicial commission, says general, page 4

(252)
Justice
system in
the dock

STAFF REPORTER

South Africa's justice system is not well equipped to guarantee the rights and freedoms that are enshrined in the constitution, Louise Stack of the Centre for Policy Studies has said.

In a recent report by the Centre for Policy Studies, Stack said a central problem was the ill preparedness of state prosecutors, whom she described as 22-year-old-law graduates with six months' experience who contended with a work overload and conducted cases that could be defended by senior defence advocates.

"The poor functioning of the criminal justice system is helping to erode the rule of law. If the Government cannot exercise its monopoly over the use of force by demonstrating its ability to protect citizens' personal security, this might lead to the constitution losing meaning for the average citizen," Stack said.

Hugh Corder, professor of public law at Cape Town University, said in the report there was a clear need to address the judiciary's functioning

Top cops come clean on killing activists

Retired police general denies activists' death was tied to a pending civil claim

By Ross Cowan
Sapa

They murdered, they lied, and now they want amnesty from the Truth and Reconciliation Commission.

Retired security police general Nic van Rensburg thus week admitted executing Eastern Cape student leader Siphwwo Minkulu in 1982 after drugging him with spiked coffee.

Earlier, another retired general, Gerrit Erasmus, confessed to giving the order to kill Minkulu and his fellow activist Topsy Madaka.

Erasmus and Van Rensburg are the highest-ranking former officers yet to appear before the TRC's amnesty committee. Other former policemen who want amnesty for the murder of Minkulu and Madaka are Colonel Gideon Nieuwoudt, sentenced to 20 years imprisonment for the Motherwell bombing, and Colonel Herman du Plessis.

Van Rensburg obtained an order from the Cape High Court last year temporarily gagging Minkulu's mother, Joyce, from implicating him in the murder of her son.

He told the amnesty committee this week he had had in his application to the High Court, and also in an affidavit to the Harris Commission of Inquiry in 1980.

Yesterday, Van Rensburg spoke publicly for the first time of his role in the abduction and murder of Minkulu and fellow activist Topsy Madaka.

Van Rensburg described Minkulu and Madaka as "two large cogs in the revolutionary struggle".

"By eliminating them, we thought we would possibly be able to succeed in stabilising the area and preventing the revolutionary onslaught from continuing locally".

Retracting Erasmus' earlier evidence, Van Rensburg said the decision to murder the two was taken after police ruled out detaining them without trial or keeping them under house arrest.

side a Port Elizabeth hotel on April 14 1982, the activists were taken to a disused police station near Cradock where they were interrogated and then given spiked drinks, he said.

"I told (Nieuwoudt and Du Plessis) to find a tranquilliser of some kind so we could put them to sleep so they did not wake up when we were eliminating them".

Nieuwoudt had helped him to move the unconscious activists outside, where Van Rensburg shot Minkulu behind the ear using his service pistol. Nieuwoudt had shot Madaka moments later in a similar fashion.

The bodies were then placed on piles of firewood, doused with diesel, set alight and burnt for six hours.

He said the policemen took turns to feed the fire through the night, alternating as two slept and the other watched the blaze.

"We would add wood to the fire and then go back into the house."

The following morning the three policemen raked up the remaining fragments of bone, bagged them and then threw them into the Fish River.

The same day they drove the activists' car to the Lesotho border to create the impression they had left the country.

On Tuesday, Erasmus denied his order to abduct and murder Minkulu and Madaka had been linked to a pending civil claim against the police for allegedly being tortured while in detention.

Erasmus admitted discussing the troublesome activist with colleagues on or about April 4 1982 - two days after Minkulu had brought a second court action against the police - but said this had simply been an "unfortunate coincidence".

He acknowledged the timing of the covert operation to abduct Minkulu and Madaka could have created the impression that he had been killed to stop the damaging and embarrassing civil suit from going ahead.

In their amnesty applica-



Stabiliser ... General Nic van Rensburg says he shot Eastern Cape activist Siphwwo Minkulu to stabilise the area and contain the revolutionary onslaught.

tions, the four former policemen claim that Minkulu, then seriously ill with thallium poisoning, was killed because they feared his imprisonment would trigger widespread revolt and rioting.

His health had deteriorated rapidly following his release from five months in detention in October 1981. He had lost weight, vomited frequently and was confined to a wheelchair.

Subsequent medical tests showed that he had ingested

quantities of thallium, a highly poisonous, colourless and tasteless chemical dubbed the "homicide's dream".

After his release from detention, Minkulu filed a civil suit on December 15 1981 alleging he had been tortured in detention.

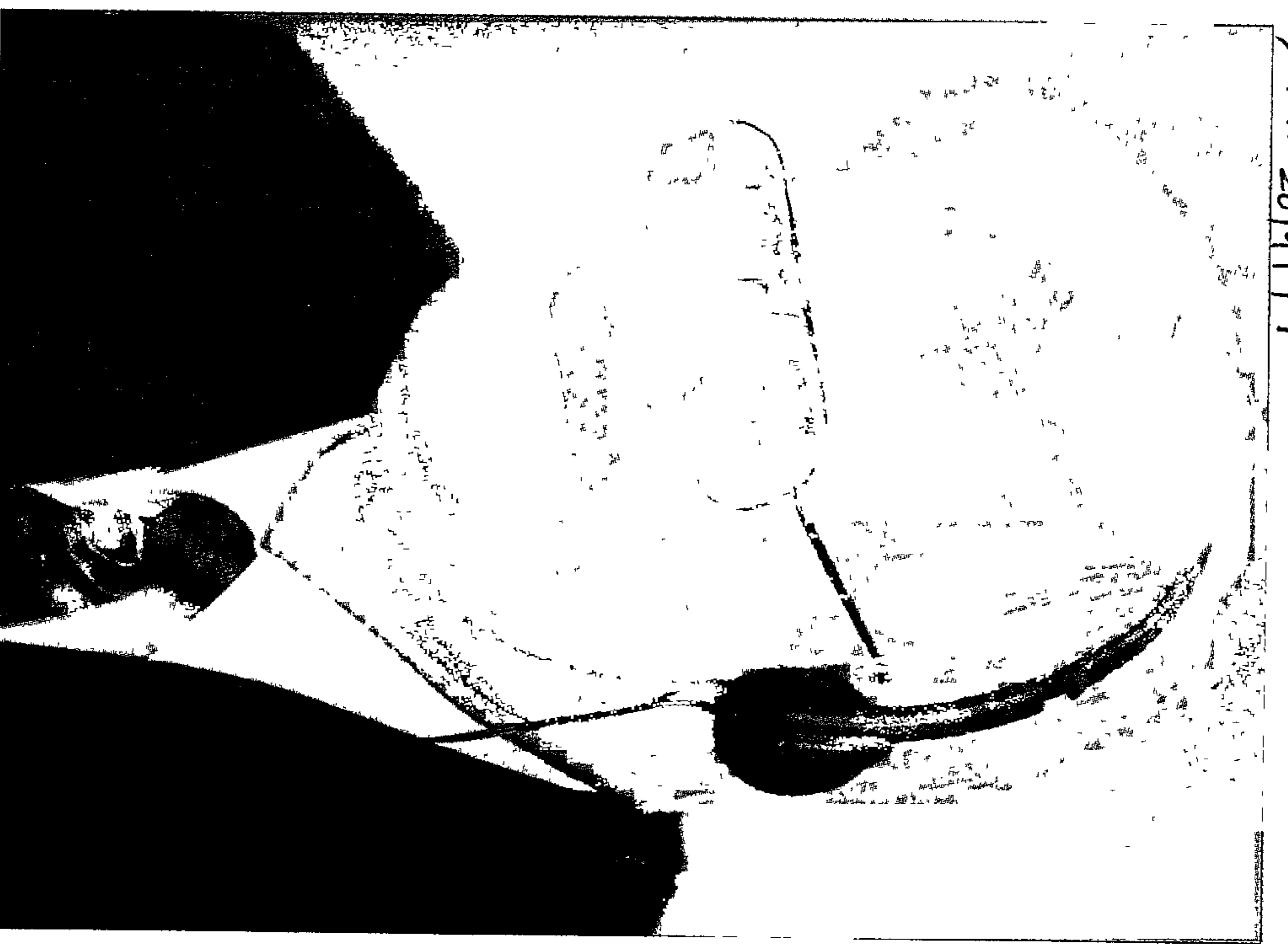
The four applicants deny torturing or poisoning but the allegations of torture have been corroborated by a former security policeman in interviews with a TRC investigator.

Hamilton Bobelo said Minkulu had been made to stand on two bricks until his legs became swollen.

He had also helped Nieuwoudt to hold Minkulu's head under water in a bath until he was gasping for air.

Nieuwoudt makes no mention of the incident in his application for Minkulu's murder.

Erasmus admitted knowing former police forensics chief General Lothar Neebling - the



Judge and executioner ... retired police general, Gerrit Erasmus, claims an activist who had to use a walking stick after his detention was so dangerous that he had to be eliminated.

man alleged to have supplied the poison - but he denied involvement in Minkulu's poisoning.

Mr Justice Andrew Wilson, who chaired the hearing, noted that an official inquiry into Minkulu's claims of torture had been due to start on May 15 1982, a month after his murder.

"At the time of his death he (Minkulu) was ambulating around with a walking stick. This is the person you regarded

so potentially dangerous as an activist that he should be killed?" Wilson asked Erasmus.

"That is correct," the general replied.

Erasmus accepted a description of himself by amnesty committee member Nsiki Sandi, who labelled the general a "judge and executioner" who had taken Minkulu's life into his own hands.

However, while he had not consulted his superiors on his

decision to kill the activist, Erasmus said he believed the National Party government had been well aware of such operations.

Former State President P.W. Botha for one must have known about the security police's elimination of activists who posed a threat to the government, he said.

"I am still under the impression that the politicians had to know, they were aware of what was going on."

(252)

Star 26/9/97

AMNESTY FOR CAR BOMB SOUGHT

De Kock to use TRC hearing to apologise

CT 26/9/97

(252)

EUGENE DE KOCK, former Vlakplaas commander, was given indemnity from prosecution for the Motherwell bomb, but wants to avert civil claims by the victims' families.

FORMER Vlakplaas commander Eugene de Kock makes his first public appearance since being jailed last year when he joins eight other former policemen today in seeking amnesty for a 1989 car-bombing in which three colleagues and a police informer were killed.

It will also be De Kock's first appearance before the Truth and Reconciliation Commission's amnesty committee. He has applied for amnesty for a range of crimes.

Last October, he was sentenced to two life terms and 212 years' imprisonment. He had been convicted of 89 charges, including six of murder.

De Kock testified at the trial of five security policemen accused of the car-bombing and was granted indemnity from criminal prosecution.

"There is a slight possibility he might be sued in a civil capacity," his lawyer, Mr Schalk Hugo, said, explaining De Kock's application for amnesty. "We also thought it was another opportunity for him to state his case and say everything that should be said. He wants to say sorry to the families."

However, a lawyer for two of the victims' families, Mr Steve Gough, said the Minister of Safety and Security had agreed earlier this year to settle the families' civil claims for loss of earnings. He declined to disclose the amount.

He said the families were challenging the amnesty applications on the grounds that the policemen had not made a "full and frank" disclosure or shown a political motive. "We are going to question the right to kill in these particular circumstances."

De Kock's co-applicants are Colonel Gideon Nieuwoudt, General Nic van Rensburg, Major Gerhard Lotz, Brigadier Wal du Toit, then-commanding officer of the police technical unit in Pretoria, Lieutenant-Colonel Kobus Kok, and former Vlakplaas operatives Major Martinus Ras, Lionel Snyman and Snor Vermeulen.

Nieuwoudt, Du Toit and Ras were sentenced to 20, 15 and 10 years' imprisonment for the blast that killed Warrant Officer Glen Mgoduka, Constable Desmond Mapipa, Sergeant Amos Faku and informer Mr Charles Jack.

Trial judge Mr Justice Jimmy van Rensburg described the murders as "cold-blooded and cruel" and

rejected suggestions that they be seen in the context of the "total onslaught" culture of the day.

Nieuwoudt and his co-accused had killed colleagues, he said.

The victims' unmarked police car was destroyed by an explosion near Motherwell township in Port Elizabeth on December 14, 1989, moments after it had been handed to them by Nieuwoudt.

At the time, it was reported that they were victims of an African National Congress attack.

Judge van Rensburg found they had been killed because Mgoduka and Jack, who had allegedly stolen R67 000 in cheques from the East Cape Council of Churches, had threatened to expose security police crimes if they were prosecuted. Among these crimes were the 1985 murders of Mr Matthew Goniwe and three other United Democratic Front activists.

Key to the convictions of the

three policemen was the evidence of De Kock, who also implicated Van Rensburg in the planning of the killings.

De Kock testified that Van Rensburg had introduced him to Nieuwoudt and asked that he assist Nieuwoudt in "silencing" the policemen and a police informer.

"I asked General Van Rensburg why it was necessary to kill them. He told me it concerned much more serious matters — including Goniwe and many other similar cases."

It had been decided to make the blast look like an ANC attack by using Russian-made explosives that were detonated by a radio-controlled device.

● The TRC said yesterday that Afrikaner Weerstandsbeweging leader Eugene Terre'Blanche had not told it of his intention to apply for amnesty for two acts of political thuggery by his supporters.

A Sunday newspaper reported that he intended to apply for amnesty today to clear his name and establish "a clean record."

"The first we've heard of it was the newspaper report," TRC spokesman Mr John Allen said.

The newspaper said one of the incidents was the tarring and feathering of Professor Floors van Jaarsveld, of the University of Pretoria, during a public meeting in 1979.

Van Jaarsveld had appealed at the meeting to Afrikaners to regard December 16 — on which they commemorated their 1838 victory at the Battle of Blood River — as a day for all South Africans to reflect on their common heritage.

The other incident was the "battle of Ventersdorp", in which three people were killed when AWB members attacked the police during then-president Mr F W de Klerk's visit in August 1991.

Terre'Blanche, 52, is on bail pending his appeal against his conviction and six-year sentence for assaulting an employee — Sapa-AFP.



Powell seeks legal advice on truth body hearing

(252)

Farouk Chothia

DURBAN — Inkatha Freedom Party (IFP) KwaZulu-Natal MP Philip Powell said yesterday he was taking legal advice in a bid to prevent the truth commission from forcing him to testify on his alleged receipt of weapons from convicted Vlakplaas commander Eugene de Kock before the 1994 elections

Powell yesterday denied he was now cooperating with the body after reversing his earlier decision to defy a subpoena. The subpoena required Powell to appear before the body on Monday. However, agreement was reached with Powell's legal representatives earlier this week that his hearing would be postponed to next month, the commission said.

Powell said this did not mean he would appear before the body. Instead, he wanted

to "take the legal route — including the possibility of going to the Constitutional Court — to protect myself from the commission"

Observers said Powell had not applied for amnesty, and that an investigation into his alleged gun-running by Transvaal attorney-general Jan D'Oliveira could result in a criminal prosecution.

"I suspect there is an agenda on the part of the commission to weaken my position (in a possible criminal case)," Powell said.

His lawyers were looking into whether he was expected to answer questions in which he might incriminate himself, because there would almost certainly be constitutional relief for him, Powell said.

In addition, he did not believe that the alleged receipt of weapons constituted a gross human rights violation, Powell said.

Commission human rights violations committee member Ilan Lax said Powell

could exercise his prerogative to go to court. However, it was clear he did not know the law, which stated that any information he gave the commission as a result of the subpoena could not be used against him in court.

Lax said that Powell's alleged receipt of weapons fell within the ambit of the commission, which was required to look at the context in which violations had been carried out.

Powell said the subpoena had been drafted by a "legally illiterate person". It stated that the commission wanted to question him on the murder of a woman in the KwaZulu-Natal midlands, but it failed to give her full name or the date of the incident. The subpoena also referred to an attack on a bus carrying African National Congress supporters, but did not give the exact date of the alleged incident.

BD 26/9/97

Nieuwoudt admits to killing Cape students

SD 26/9/97
(272)

PORT ELIZABETH — Former security policeman Gideon Nieuwoudt said yesterday he gave two Eastern Cape students an overdose of his own sleeping pills before shooting one of them.

Nieuwoudt is one of four former security policemen, including two retired generals, seeking amnesty for the 1982 murders of Siphrwo Mtinkulu and Topsy Madaka.

He was sentenced last year to 20 years' imprisonment for the 1989 Motherwell car bombing in which three policemen and an informer were killed. He is on bail pending an appeal against the sentence.

As Nieuwoudt stood to take the oath yesterday, the audience in Port Elizabeth's Centenary Hall began jeering, prompting a rebuke from amnesty committee panel chairman Judge Andrew Wilson.

Nieuwoudt, a warrant officer at the time of the murders, said he and former Col Herman du Plessis abducted Madaka and Mtinkulu from outside a Port Elizabeth hotel on April 14 1982.

Nieuwoudt said he drove the pair towards Port Elizabeth's beachfront while Du Plessis travelled behind them. He gave the activists the impression he wanted to question them. At the beachfront, Du Plessis stopped to telephone Lieut-Col Nic van Rensburg — now a general — to brief him. Van Rensburg has also applied for amnesty for the murders.

After picking up Van Rensburg at Algoa Park police station, they drove to the disused Port Chalmers police station near Cradock.

After interrogating the two stu-

dents, Nieuwoudt said he gave them coffee spiked with his own prescribed sleeping pills.

"I had been studying a lot. I would use the tablets to put my thoughts to rest. Only half a tablet was needed to put me to sleep immediately. I put an overdose of tablets in their coffee and I gave it to them to drink. I can't remember, but I think it was two or four tablets." When the two were unconscious he and Van Rensburg took them outside.

"Van Rensburg shot the one person and I shot the other."

Earlier, Van Rensburg admitted to killing Mtinkulu with a single shot behind the ear. He said Nieuwoudt shot Madaka, but, according to Van Rensburg, Nieuwoudt had forgotten the event.

Nieuwoudt said the bodies were burned and the remains thrown into the Fish River.

"I am sorry for the families. I am sorry about what happened," he said. "I was caught up in the middle of the struggle and conflict of the past. Now the present government has given me the opportunity to come and tell the truth and explain what happened."

Nieuwoudt said he had initially distrusted the commission but changed his mind after discussions with former police commissioner Gen Johan van der Merwe.

He is due to take the stand again next week when he applies for amnesty for the Motherwell bombing. He will be joined in the application by eight other policemen, including former Vlakplaas commander Eugene de Kock. — Sapa

Activists drugged then shot, says Nieuwoudt

Crowd heckles at amnesty hearing

(252)

ART 26/9/97

Port Elizabeth - Former security policeman Gideon Nieuwoudt fed Eastern Cape activists Sphiwo Mtinkulu and Topsy Madaka his own powerful sleeping tablets before they were shot dead.

This was evidence yesterday to the Truth Commission's committee hearing amnesty applications from Nieuwoudt and former colleagues Nic Janse van Rensburg, Gerrit Erasmus and Hermanus du Plessis for the abduction and murder of the men in 1982

When Nieuwoudt moved to the microphone to start testifying, there were shouts, jeers and whistles from the crowd of about 300 in the Centenary Hall in Ibayi township

Some people held posters reading "Nieuwoudt - serial killer", "Nieuwoudt - expose them" and "Nieuwoudt don't sink alone, expose your seniors"

The committee chairman, Mr Justice Andrew Wilson, threatened to clear the hall, saying "Mr Nieuwoudt is entitled to a hearing without interruption" and Nieuwoudt's advocate, Cobus Booyens, remarked: "There seems to be a fair amount of hostility"

Nieuwoudt and General Van Rensburg



ON THE TRUTH COMMISSION

have admitted killing Mr Madaka and Mr Mtinkulu at the disused police station at Post Chalmers near Cradock. The men's bodies were burnt and their remains put in a plastic bag and dumped in the Fish River

Nieuwoudt testified that he used his own money to fill two 25-litre containers with diesel at a Cradock service station on the way to Post Chalmers

The fuel was used to help burn the bodies. He said he had been ordered to bring sleeping pills so that the activists could be drugged before being shot. He had a prescription for sleeping tablets at the time as he was studying and needed the medication

The tablets were powerful and he needed only half to fall asleep almost immediately. He said he put the tablets - "I can't remember exactly, it was two or four" - in the activists' coffee and they fell asleep before being taken outside and killed

Nieuwoudt was convicted of murder last year for the 1989 Motherwell car-bomb blast in which three of his security police colleagues and an informer died. He is on bail pending appeal against his 20-year sentence.

He told the committee he had lied during this trial as he was under the impression the State could not find enough witnesses to convict him and believed he could get away with it. But former Vlakplaas "hit squad" commander Eugene de Kock had testified against him and he was convicted

Nieuwoudt is one of nine former policemen whose amnesty applications for the Motherwell murders will be heard here next week

Nieuwoudt told the committee yesterday he had initially not trusted the Truth Commission's amnesty process, believing it was an excuse for a "witch-hunt" against people like himself

Death came after 'special hamburger'

Port Elizabeth - Eastern Cape student leader Sphiwo Mtinkulu, who was probably given poison in detention, enjoyed a "special hamburger" just before his release, the Truth Commission's amnesty committee has been told.

In a statement after being released in October 1981 after five months in jail, Mr Mtinkulu said one of his security police interrogators, Hermanus du Plessis, offered him anything he wanted to eat before being freed. He ordered a special hamburger

Colonel Du Plessis, a captain at the time and now retired, is one of four former security policemen applying for amnesty for the abduction and murder of Mr Mtinkulu and colleague Topsy Madaka in 1982

Mr Mtinkulu's version of events is corroborated in a statement to the Truth Com-

mission last year by Fuzile Bongani, who was held at the same time

He said he was taken to security police headquarters in Port Elizabeth on the day of their release. "When I arrived there I met Sphiwo, Wantu (and) Mpumelelo Yantolo

"Du Plessis told us that before they could release us, we must first eat. Du Plessis asked us one by one what we wanted to eat"

Mr Mtinkulu initially ordered chicken, but when the security policemen retorted that "He thinks he's in a hotel", he changed his mind and asked for a hamburger and orange juice, Mr Bongani said. The others ordered curry and rice, special hamburgers, orange juice and milk

A black policeman was sent to buy the food and when he returned, he took it to the office where Colonel Du Plessis and the other policemen were. "After about 15 min-

utes Du Plessis came with the food and gave each one of us the food we had asked for. We then ate there," Mr Bongani said

About three days after their release, he was told Mr Mtinkulu was critically ill. "I went to see him in Livingstone Hospital and I noticed that he was very sick and was mentally disturbed"

In his statement, Mr Mtinkulu said Colonel Du Plessis and another security policeman had given him two kinds of tablets for his swollen feet and pain

But during his testimony to the amnesty committee yesterday, Colonel Du Plessis denied giving Mr Mtinkulu tablets or poisoning him and said he had no recollection of personally buying food for him. He agreed it would have been possible for any of the 10 to 20 security policemen involved in Mr Mtinkulu's detention to have poisoned him

Dressed as priests, the feared pair cruised the township on 'black ops'

(252)

Deadly trio of the Eastern Cape

SPW 27/9/97

The family fainted and sobbed as it finally hit home, the crowd surged to the stage, and the generals hit the exits. The young lions roared again in Port Elizabeth this week after the killer of Cosas leader Siphwo Mtimkulu finally confessed after previously lying to the Harris Commission seven years ago to protect the security police. **PETER DICKSON** reports

Port Elizabeth - The wheelchair-bound young man, his hair falling out from rat-killing thallium poison, would become the first real martyr of Port Elizabeth's township resistance to apartheid in the 1980s.

Yes, he had disappeared, the police said. Probably gone to join the ANC. After all, they had found his constant companion's car at the Lesotho border, the first stage for exile in those days before the infamous Maseru raid ruined all that. But no one really believed the official version. In Zwijde, Kwazakhele and New Brighton, they said it was "Van Rensburg and Nieuwoudt".

It was always "Van Rensburg and Nieuwoudt" in that dreaded minibus cruising the township streets at night. Sometimes, and this was Colonel Gideon Nieuwoudt's favourite, they would don priests' gear to visit the families of those they had detained - or helped to disappear.

Ex-military intelligence chief for the Ciskei, Colonel Gerrie Hugo, said last year they always used General Nic van Rensburg and Nieuwoudt on Eastern Cape "black ops" missions - abduction and, at best, interrogation.

Nieuwoudt, a convicted and self-confessed killer, had a favourite line to the defiant. "I'll make you famous" Congress of SA Students, activists, will tell you that those people were never seen again.



KILLINGS NOT DONE LIGHTLY: Colonel Gideon Nieuwoudt (left), General Nic van Rensburg (centre) and General Gerrit Erasmus

Like Steve Biko, for whose killing Nieuwoudt sought amnesty from the Truth and Reconciliation Commission in Port Elizabeth two weeks ago. And the Pebeo Three, for whose deaths he will apply for amnesty next month.

And Siphwo Mtimkulu and Topso Madaka, for which he was seeking amnesty again this week, along with Van Rensburg.

Van Rensburg, the baby-faced blue-eyed charmer, and Nieuwoudt, the last man with Elvis Presley sideburns and a face lined with too many stories you don't want to know.

Together again, they played it straight for once this week, minus the clerical drag.

Their former boss, General Gerrit Erasmus, began by saying he had ordered the killing - "not done lightly... I am not a murderer" - because detaining the influential Cosas pair would have

sparked an uprising thanks to the publicity over the University of Cape Town's thallium diagnosis.

Van Rensburg, who says he was also in on the discussions for the "permanent removal from society" of Matthew Goniwe in 1985, was also part of the chat - and the apartheid government was consulted and kept fully informed, as usual.

Port Elizabeth in 1982, its township schools on the march behind Cosas, was a "destabilised flashpoint" and Mtimkulu and Madaka had to be "eliminated", Erasmus told a packed Centenary Hall in New Brighton this week.

This, in fact, meant "kill", Erasmus explained. Van Rensburg and Nieuwoudt stated they had abducted Mtimkulu and Madaka from near the Port Elizabeth beachfront's isolated Holiday Inn on April 15 1982.

They had driven the pair, used to this pattern of behaviour by now-frequent run-ins with the Special Branch, to Port Chalmers near Cradock.

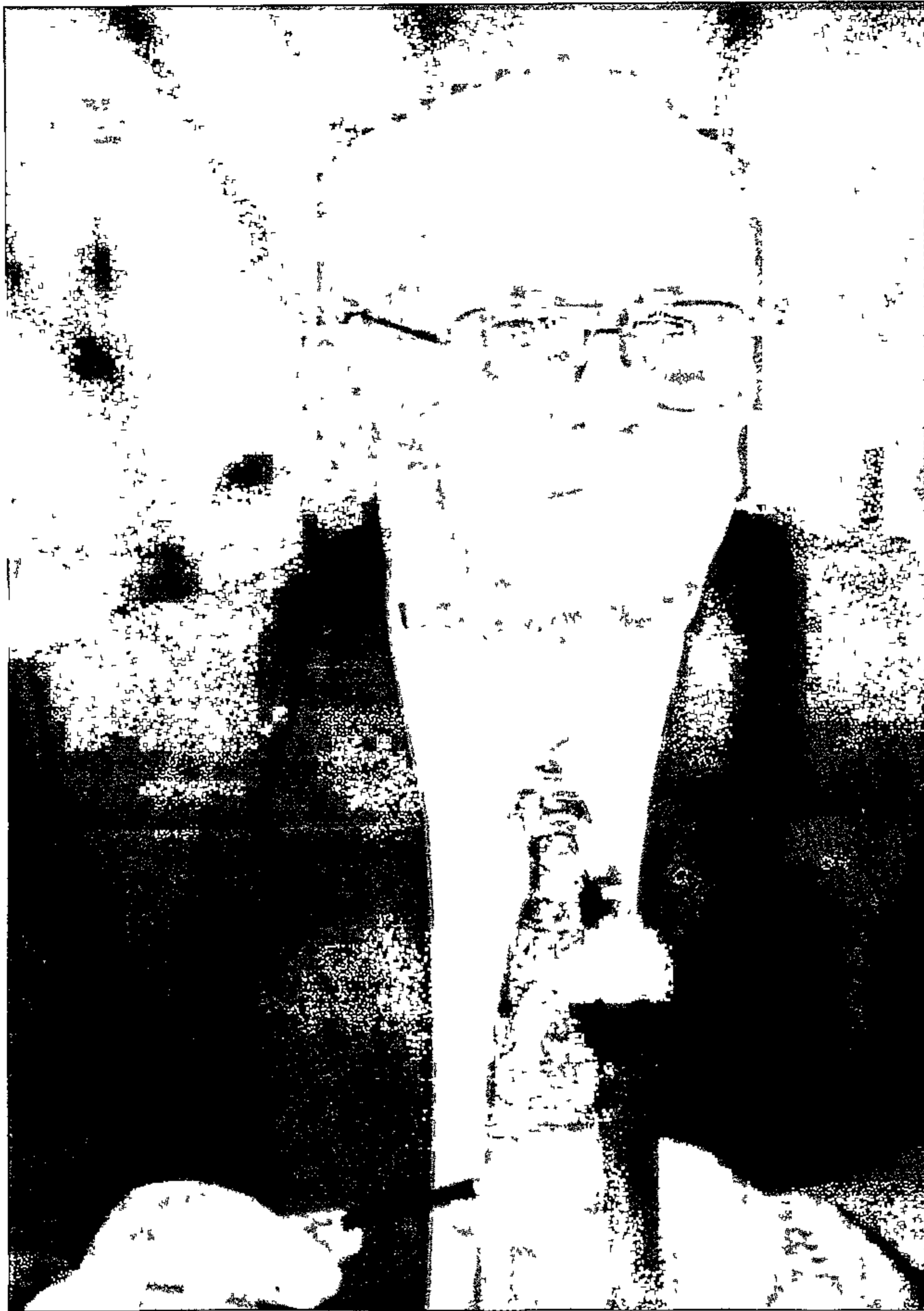
There, at a disused police station in the remote area, the security police had begun developing their own version of the torture chamber.

Later, in 1986, the Pebeo Three would be beaten to death there. On April 16 1982, after interrogation and drug-induced sleep, Mtimkulu and Madaka were dragged outside to a waiting fire.

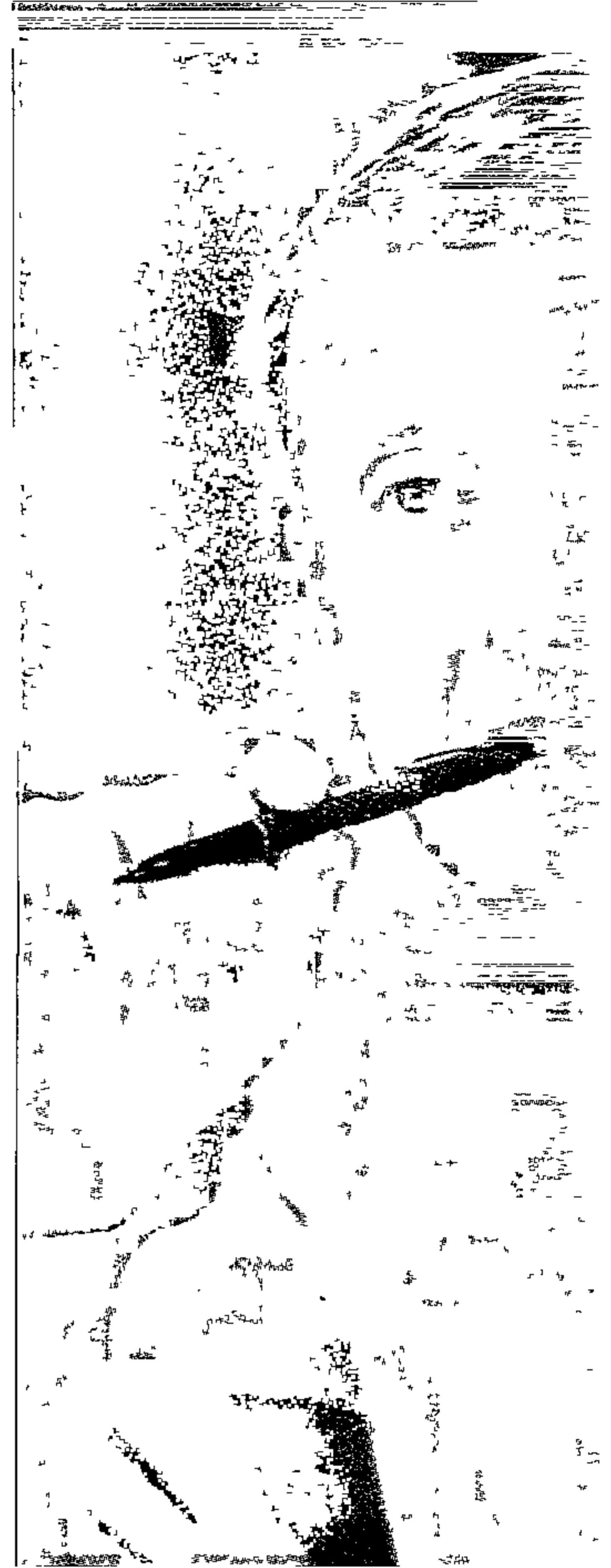
Van Rensburg shot Mtimkulu in the back of the head, and Nieuwoudt did the same with Madaka.

Then the bodies were tossed on to the pyre as the killers stood around - for six hours - until the bones had been reduced to ash.

Then they were scooped up into plastic bags. Nieuwoudt was alone as he drove the remains to the Fish River and scattered the ashes among the water world of the ancestors. He had made Mtimkulu and Madaka famous - ECN

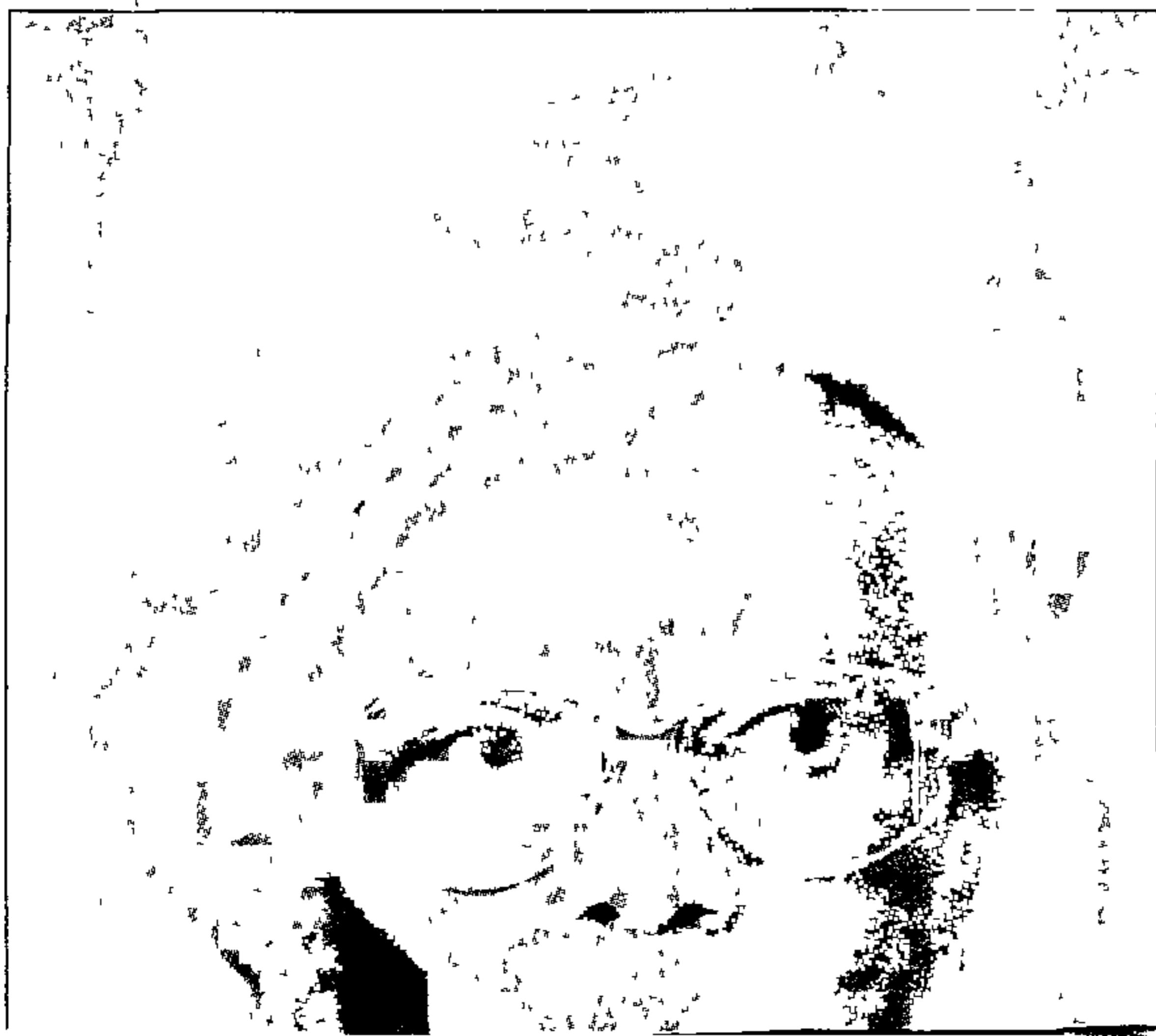


Nic van Rensburg: shot Mtimkulu in the back of his head



Gideon Nieuwoudt: his favourite line was 'I'll make you'

Priests of murder



PETER DICKSON

Port Elizabeth – Family members fainted and sobbed as it finally hit home, the crowd surged to the stage and the generals hit the exits after the killer of Cosas leader Siphiso Mtimkulu finally confessed to the Truth Commission this week, after lying to the Harms Commission seven years ago to protect security police

Mtimkulu, the young activist who ended up in a wheelchair after being given rat poison and who was later shot dead by security policeman Nic van Rensburg, became the first real martyr of Port Elizabeth resistance to apartheid in the 1980s

Yes, he had disappeared, the police said at the time. Probably gone to join the African National Congress. After all, they had found his constant companion's car at the Lesotho border, the first stage for exile in those days before the

infamous Maseko that

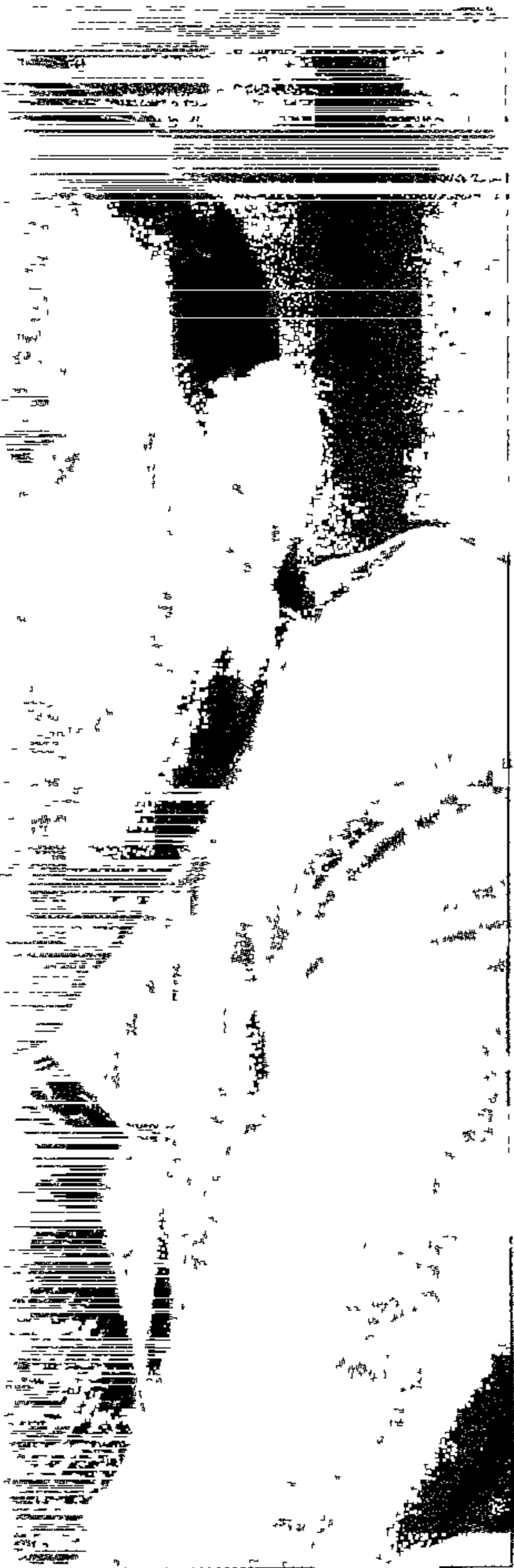
But no one official version. In Z and New Brighton policemen Van Gideon Nieuwoudt the townships in

It was always Nieuwoudt – in "cruising township

Sometimes, a woudt's favour of priest's gear to y those they had d disappear.

The ex-militar for the Ciskei, Co said last year the Rensburg and N Cape "black ops" tion and, at best

Nieuwoudt, self-confessed k line to the defiant famous "Cosas"



LEON MULLER

General Gerrit Erasmus: confessed to ordering the killing

confess at last

ARG 27/9/97

(252)

raid ruined all
believed the offi-
Kwazakhele
they said it was
Rensburg and
who terrorised
early 1980s
Rensburg and
headed minibus
reets at night
this was Nieu-
they would don-
the families of
ned - or helped
elligence chief
Gerrie Hugo,
ways used Van
udt on Eastern
issions - abduc-
ogation
convicted and
whose favourite
"I'll make you
sts will tell you

those people were never seen again.
Like Steve Biko, for whose death Nieuwoudt sought amnesty from the Truth and Reconciliation Commission in Port Elizabeth two weeks ago
And the deaths of the Pebco Three, for which he will apply for amnesty next month And the deaths of Siphwo Mtinkulu and Topsy Madaka, for which he was seeking amnesty before the TRC again this week - with Van Rensburg
Van Rensburg, the baby-faced blue-eyed charmer, and Nieuwoudt, the last man with Elvis Presley sideburns and a face lined with too many stories you don't want to know.
Together again, they played it straight for once this week, minus the clerical drag
Their former boss, General Gerrit Erasmus, began by saying he had ordered the killing - "not done lightly... I am not a murderer" - because detaining the influential Cosas pair would have sparked an uprising,

thanks to the publicity over the University of Cape Town thallium (rat poison) diagnosis
Van Rensburg, who says he was also in on the discussions for the "permanent removal from society" of Matthew Goniwe in 1985, was also part of the chat - and the apartheid government was consulted and kept fully informed as usual
Port Elizabeth in 1982, its township schools on the march behind Cosas, was a "destabilised flashpoint" and Mtinkulu and Madaka had to be "eliminated", Erasmus told a packed Centenary Hall in New Brighton this week
This meant "kill", he explained
Van Rensburg and Nieuwoudt said they had abducted Mtinkulu and Madaka from near the Port Elizabeth beachfront's isolated Holiday Inn on April 15, 1982
They had driven the pair, used to this pattern of behaviour by now after frequent run-ins with the spe-

cial branch, to Post Chalmers near Cradock There, at a disused police station in the remote area, the security police had begun developing their own version of the torture chamber
Later, in 1986, the Pebco Three would be beaten to death there On April 16, 1982, however, after interrogation and drug-induced sleep, Mtinkulu and Madaka were dragged outside to a waiting fire
Nic van Rensburg shot Mtinkulu in the back of the head, and Gideon Nieuwoudt did the same to Madaka
Then the bodies were tossed onto the pyre as the killers stood around for six hours - until the bones had been reduced to ash. Then they were scooped up into plastic bags
Nieuwoudt was alone as he drove the remains to the Fish River and scattered the ashes in the water world of the ancestors
He had made Siphwo Mtinkulu and Topsy Madaka famous. - ECN Weekend Service

Journalists defy Afrikaans press over TRC ban Submissions go ahead

JACQUE GOLDING-DUFFY

Senior journalists on prominent Afrikaans newspapers Beeld and Die Burger have defied their management and are making media submissions to the Truth and Reconciliation Commission.

Reporters at Beeld and some staffers at Die Burger as well as some reporters on the

company's Afrikaans magazines have sidestepped a Nasionale Pers (Naspers) directive by individually signing submissions apologising for their roles in "not properly informing readers of the injustices of apartheid".

Naspers non-executive chair Ton Vosloo has made it clear to staffers that company policy dictates that no one from Naspers should officially testify before the TRC on the media - so, no one did.

The absence of Naspers from the hearings was seen as "typical behaviour" by some black journalists and

as "pathetic" by other white reporters. Many reporters working at Naspers' publications were themselves unhappy with the situation.

Now the tension that has been rising at Naspers regarding its silence at the TRC media hearings has led to a showdown between Naspers bosses and some senior editorial staff.

'It is not true that we were threatened with dismissal at any stage'

Not all reporters are in favour of making a submission to the TRC, but those who are are willfully signing a statement which they are handing to the TRC, albeit late.

It is understood that Beeld deputy editor Tim Du Plessis has openly challenged those in Naspers' upper echelons who are opposed to making a submission and in our of maintaining a wall of silence.

Staffers at both Beeld and Die Burger see Du Plessis as the leading force in ensuring that reporters be allowed to make submissions to the TRC. He has apparently previously

locked horns with Ton Vosloo on the issue and many believe he has antagonised the top structure of Naspers through his actions.

Du Plessis was cautious as he spoke this week. He said his posting to Die Burger in Cape Town from Gauteng was not a demotion or "punishment" but was an "operational move" as Die Burger had a vacancy following former deputy editor Chris Woolman's promotion to editor of Rapport.

Some staffers alleged that they have been threatened by top Naspers editorial staffers over plans to make submissions to the TRC, but Du Plessis denies this.

"It is not true that we were threatened with dismissal at any stage," says Du Plessis, refusing to comment further.

Du Plessis will take up his post as deputy editor of Die Burger under Ebbe Dommisse from January next year.

The statement which reporters have signed states, among other things, that the signatories believe that an admission of guilt or an apology is essential for the process of rec-



Under fire: Nasionale Pers chairman Ton Vosloo faces a revolt from staff members

conciliation to take place and is vital towards nation building.

The submission openly admits that an "intimate relationship developed between Naspers and the National Party early in the century" and that the newspapers "became mouthpieces" for the party.

In the mid eighties top editorial staffers at Die Burger made no secret that the publication was seen as the official mouthpiece of the NP.

The submission does not allow signatories to distance themselves from any admission of guilt.

In its sixth paragraph it states that although a journalist who is making the submission may not have been directly involved in gross human rights abuses in the period the com-

mission covers - between 1960 and 1994 - the signatory does admit that it was morally wrong for him or her to ensure that apartheid thrived and that it was accepted in an institution such as Naspers.

The submission spearheaded by Beeld staffers is in line with the newspaper's shift to the left of its sister publication, Die Burger, in recent years. Editor of Die Burger Ebbe Dommisse was, according to insiders, against testifying at the commission.

While Die Burger is seen by media observers as more conservative than Beeld, it is not regarded as being as far right as Rapport.

Dommisse and Vosloo could not be reached for comment at the time of going to press.

ARG 27/19/97

(252)

Naspers staff say sorry for role in aiding apartheid

ARU 27/9/97 (252)

A total of 127 journalists from Nasionale Pers newspapers and magazines yesterday made a submission to the Truth and Reconciliation Commission apologising for their role in the apartheid years.

Commission chairman Archbishop Desmond Tutu described the document as an "extraordinarily powerful statement", and welcomed it on behalf of the commission and of victims of apartheid.

He said the submission had been endorsed by journalists, in their individual capacities, from Beeld, Die Burger, Rapport, Volksblad, Insig, Huisgenoot, Sarie, You and Fair Lady, as well as a number of former Naspers journalists. More were expected to sign.

"While I understand they are not acting under threat of losing their jobs, I want to commend the journalists warmly for following their consciences in the face of very considerable opposition," Archbishop Tutu said. "There is a very significant contribution to reconciliation and the process of healing our land."

The journalists said they were making the submission as individuals, and not on behalf of Naspers or any of its publications.

They said they believed reconciliation between, and the just treatment of, different groups of people in South Africa were essential to nation-building, and that disclosure of the past was an essential part of this.

They said Naspers newspapers had formed an integral part of the

National Party's power structure which implemented and maintained apartheid through, for instance, supporting the NP in elections and referendums.

The efforts Naspers had made to change and oppose apartheid should be acknowledged, as should its efforts to persuade and prepare whites for change and reform.

This, however, did not diminish or neutralise support for apartheid.

The journalists said although they had not been personally or directly involved in gross human

rights abuses, they regarded themselves as morally co-responsible for what happened in the name of apartheid because they helped maintain a system in which these abuses could occur.

They said they had been blind and deaf to the political aspirations, anger and suffering of their fellow South Africans.

"I, like many others .. did not properly inform readers of the injustices of apartheid," each of the 127 said in an individually signed statement. "(I) did not oppose these injustices vigorously enough and, where I had knowledge of these injustices, too readily accepted the National Party government's denials and reassurances.

"To all those who suffered as a result of this, I offer my sincerest apology and fully commit myself to preventing the past from being repeated" - Sapa

'I, like many others... did not properly inform readers of the injustices of apartheid'

Ex-Argus chief will not appear before TRC

A caption in last Saturday's was incorrect in saying that former Argus Group Chief Executive Doug Band had been subpoenaed to appear before the Truth and Reconciliation Commission to testify on media issues.

The appeals by the Forum of Black Journalists to the TRC to subpoena Mr Band and other former SABC and SAAN executives to testify before the commission, had not been successful. Saturday Argus regrets the error.

Stompie mystery prevails - - for now

Contradictory testimony will count in Winnie's favour

RAY 27/9/97
(252)

CHARLIE SMITH

Johannesburg - Nelson Mandela's government spent about R200 000 two years ago in an intensive re-investigation of allegations that his wife Winnie Madikizela-Mandela was involved in the murder of Abu Baker-Asvat and he disappeared of Lolo Sono and Vincent Tshabalala.

Senior sources say the secret probe, revealed for the first time yesterday, confirmed earlier findings by the police that Madikizela-Mandela was not involved in the killing of Asvat. But the disappearance of the two young

activists Sono and Tshabalala remains a mystery. The re-investigation was conducted at the instigation of Safety and Security Minister Sydney Mufamadi after he was approached by the Asvat family.

They had boasted to the induna that they had killed a doctor and stolen his money

In their quest investigators traversed South Africa and visited Lusaka, Zambia and London. Geologists were called in and earthmoving equipment used to dig for the alleged remains of Sono and Tshabalala at a site near Soweto pointed out by Jerry Richardson.

A senior legal source said, "If they are ever found there is enough evidence to charge Madikizela-Mandela. Certainly the state already has enough prima facie evidence to charge her with their abduction. But no attorney-general will charge her unless they are found."

Mufamadi spared no effort to find the men. But the tale told by Jerry Richardson and the events around

his telling it are bizarre. During the re-investigation into the Asvat killing events around the death of Sono and Tshabalala was considered so disturbing that detectives were ordered to re-investigate their disappearance too. Richardson was interviewed at Leeuwkop maximum prison where he refused to speak to police about the incident until R10 000, owed to him by security police for the killing of three Umkhonto to WestZwe members at his home in 1989, was paid to him.

Richardson told the detectives that he was a regular informer for the Security Branch and had alerted his handler, Warrant Officer Smith, that Madikizela-Mandela had sent three MK members who were in the country to stay at Richardson's house. He was offered R10 000 for this information, he claims.

However, the Security Branch compromised Richardson by going to his home to arrest the three cadres. A shootout ensued during which the cadres were killed with Warrant Officer Smith.

This meant two things to Richardson - he could not claim his money because his handler was dead and secondly, Madikizela-Mandela wanted to know how police had come by the information about the three MK cadres.

Richardson told her that Sono and Tshabalala were police spies. Tshabalala and Sono's parents claim Madikizela-Mandela fetched their sons claiming they were

impumps (informers).

They were not seen again but for an instance when, Sono's parents claim, their badly injured son was brought back to their home briefly by Madikizela-Mandela. They allege their pleas for him to be left at home were ignored. Richardson told Mufamadi's investigators he could give them information about the death and sites of the bodies of Sono, Tshabalala and a woman, Kukhi Zwane, who police had not known about, if they gave him R10 000 he claimed, he was owed. Detectives searched Security Branch records but found that files on informers had been destroyed before the 1994 elections. However, on authority of General Snijder, head of criminal intelligence, Richardson was given the money to locate the bodies.

Richardson told detectives of the death of Kukhi Zwane, who he said was killed by other Mandela United Football Club members after she became involved with Zindzi Mandela's boyfriend.

Her body was dumped in an open field. Detectives went back through files and found a body at the site mentioned by Richardson. She had been buried as an unknown person. Her parents were contacted and she was identified.

In the past fortnight, however, Richardson had admitted that he, in fact, was the killer. Two years ago he told detectives that Sono and Tshabalala were killed by two MUFIC members and buried on the west side of nine dumps near Dobsonville. He claimed Madikizela-Mandela asked him to ensure the two had been disposed of. He told investigators he went to the nine dumps but because



Martyr or murderer? Winnie Madikizela-Mandela at a TRC hearing yesterday. It was raining could not ascertain anything. He took police to dumps near Dobsonville, Soweto. Police paid R26 000 for front-end loaders, brought in sniffer dogs and experts on the sniffing of mine sand and for a week dug for the bodies and found nothing. Detectives said they believed Richardson killed the two.

While the Sono and Tshabalala disappearances remain unsolved, investigators were firm in their belief about Madikizela-Mandela not being involved in the killing of popular Soweto doctor, Abu Baker-Asvat. Nicholas Dlamini, incarcerated for the 1989 death of Asvat, alleged a fortnight ago that Madikizela-Mandela ordered Asvat's death - in his

application for amnesty from the Truth Commission. He claimed she said she would pay him and his co-accused for the killing. However, he did not voice this evidence during his trial or police questioning afterward.

The initial police investigation and the re-investigation ordered by Mufamadi at the instigation of the Asvat family shows Dlamini's account is unlikely to be true. Dlamini, and his co-accused had fled KwaZulu Natal after robbing a store and took shelter at a hostel in Soweto. Police files show that around the time of the killing of Asvat a number of township doctors had been singled out as soft targets by robbers because they kept cash on their premises.

Asvat was shot and money stolen. At the hostel they had killed a doctor and stolen his money. However, news was already being broadcast about the death of Asvat and linking it to the death of Sepele. The induna called the Flying Squad, who in turn brought in the Riot Squad. The two men were arrested and severely assaulted. They were repeatedly asked if they had been involved with Madikizela-Mandela, both denied this.

After considerable torture Dlamini claimed Madikizela-Mandela was involved, but his statement was so contradictory the attorney-general did not admit it to the trial. Those who claim Madikizela-Mandela must have been involved say that after the abduction of 13-year-old Stompie Sepele (who Richardson later killed by sitting his throat) from the mansion of Paul Verryn (now Methodist Bishop of Johannesburg) by Madikizela-Mandela and

others, he was taken to the surgery of Asvat for a "certificate proving he had been sodomised". Asvat found no such evidence. Later, after the boy was badly assaulted in a back room at the Madikizela-Mandela home in Orlando West, Asvat was again called in. He allegedly recommended the boy be taken to hospital. The child was subsequently slain and Asvat's murder followed in a few days.

A senior source in the Department of Safety and Security noted "the people who killed Asvat were bumbling idiots". "There were more discreet ways to kill Asvat if that is what was desired. Asvat's killing so close to the killing of Stompie was an unfortunate coincidence. Winnie is innocent."

Legal sources say the primary sources in the allegations around many killings are so unreliable and many times - ranging from Katiza Cebekhulu, Xoliswa Falezi, Richardson and others, that lawyers could "demolish their testimony". If given at an open Truth Commission hearing - which Madikizela-Mandela has demanded, rather than the closed-door hearings the TRC has established with only her testifying.

"It is in Madikizela-Mandela's interests to have open hearings with these people as witnesses. Their evidence will be so poor she will be able to turn and point to media witch hunts against her and the veracity of some true evidence will be lost. It will strengthen her politically." "But the story of Sono and Tshabalala is different. The witnesses are few and reliable. If those bodies or men were found, things could change," sources said.

Winnie squares up to the TRC

(252) ARG 27/9/97

From page 1

there last month when Chris Hanu's widow Limpho went through her ordeal at the TRC, but no one was there yesterday to support the woman once known as the "mother of the nation".

The Saturday Argus has learnt that Mrs Madikizela-Mandela is one of only a few African National Congress National Executive Committee members who have yet to submit an amnesty application to the Truth and Reconciliation Commission.

The ANC made this request of all its top serving members on the NEC, or its equivalent, who have been in leadership positions since 1960.

While senior ANC sources

would not give exact names and figures, they said most NEC members had complied. Mrs Madikizela-Mandela, however, had not despite some of her colleagues on the NEC informally urging her to do so.

Last week the Saturday Argus reported on 11 murders in which the Mandela United Football Club, led by Mrs Madikizela-Mandela, was allegedly implicated. However, two murders not mentioned, those by MUFC member Oupa Seheri - serving a life sentence - are part of the present investigative hearing.

Mrs Madikizela-Mandela was sentenced in 1991 to six years for kidnapping activist Stompie Seipel, 14, who was later killed, and for assaults on four boys. The

assault convictions were dismissed on appeal, and she was fined for the kidnapping.

Yesterday's hearing was marked by legal wrangling contesting the right of the TRC to subpoena Mrs Madikizela-Mandela. Mrs Madikizela-Mandela's lawyers told the hearing that despite their reservations about some legal issues, Mrs Madikizela-Mandela had made it clear that she wanted the inquiry to go ahead.

"She wants this matter buried once and for all," Mr Semanya told the investigative panel.

The TRC will not comment in connection with the amnesty process. It has apparently received well over 7 500 amnesty applications, many of them from within prisons.

Call Toll Free: 0800 222 203

Birthday grilling for Winnie at TRC

ARG 27/9/97 (252)

CHARLENE SMITH

Johannesburg - Yesterday was one birthday that 63 year-old Winnie Madikizela-Mandela would prefer to forget.

Instead of celebrating, President Mandela's ex-wife spent the day being grilled by the Truth and Reconciliation Commission's investigative unit on allegations of her involvement in a series of murders, abductions and torture during the 1980s.

"The commission elects to call us on September 26 which happens to be the 63rd birthday of our client," her legal representative advocate Ishmael Semanya told the panel at

the TRC's Johannesburg offices.

"The entire country seems to be aware of this (her birthday), but not the Truth Commission," he said.

"Could there not have been a better day. This is not an accused person, this is a witness. We would have expected the commission to be a lot friendlier," Mr Semanya said during the initial public hearing.

To make matters worse for Mrs Madikizela-Mandela, who had asked to testify at an open session on the allegations against her, the panel proceeded with a closed-door hearing in the afternoon.

This hearing was scheduled to continue today.

The TRC, however, agreed to allow her to appear before a public inquiry that will begin on November 24 and last for at least a week. The present closed-door hearings are an attempt to narrow the issues at stake.

Mrs Madikizela-Mandela, very composed throughout the hearing and elegantly coiffed and clad, cut a lonely figure in the dock.

Including bodyguards, there were no more than about eight people with her, none of them recognisable faces. This was in marked contrast to her habit of always appearing at the side of prominent people who are experiencing personal crises. Mrs Madikizela-Mandela was

To page 2

BRETT ADKINS

THE mother of slain activist Siphwo Mtimkulu — executed 15 years ago because of his "threat" to the government — has told how, in the face of confessions from his ex-security police killers, she still cannot believe them.

Joyce Mtimkulu says she cannot accept claims, for instance, that her 21-year-old son was drugged and unconscious before being shot.

His interrogators would not have spared him the terror of knowing he was about to die, she told the Sunday Times, because "they hated him so much".

The families of Mtimkulu and fellow student activist Topsy Madaka — who was executed with him — are opposing the amnesty applications of four former security policemen who have confessed to the 1982 killings.

They had to listen to harrowing details this week from retired generals Gerrit Erasmus and Nic van Rensburg, and former colonels Gideon Nieuwoudt and Herman du Plessis, about the final hours of the young men who were deemed a threat to the NP government and killed "as our only option".

Family members are adamant that the whole truth has still not come out, and say they are bitter that the applicants showed little sign of remorse.

"They hated Siphwo — hated him tremendously," said a drained and frail-looking Joyce Mtimkulu. "I cannot believe for a moment they would first have drugged him before shooting him."

"My son must have been tortured. But these men sit here and tell us lies. And they are not sorry for what they did."

In their applications before the Truth and Reconciliation Commission's amnesty committee in Port Elizabeth's Centenary Hall, the ex-police men revealed chilling details of how Mtimkulu and Madaka were kidnapped, taken to a disused police station near Cradock, interrogated and drugged with spiked coffee.

The unconscious men were then taken outside, shot execution-style in the back of their heads, and their bodies burnt on a wood pyre for hours, until just ash and bones remained.

For Joyce Mtimkulu, there are still huge gaps in the confessions of her son's interrogators and killers such as his poisoning with thallium months before his death, which left him in intense pain and hardly able to walk. He vomited frequently, lost weight and was confined to a wheelchair.

"What about the poisoning? They must know

about this," she said. Nieuwoudt, who is out on bail pending an appeal against his 20-year jail sentence for the Motherwell car bombing which killed three of his colleagues and a police informer, told the committee he gave the students an overdose of his own prescription sleeping pills before he and Van Rensburg took them outside. "Van Rensburg shot the one and I shot the other," he said. Van Rensburg, the former

head of the security police's trade union section in the Eastern Cape, earlier confessed to killing Mtimkulu by shooting him behind the ear. On hearing this, there were angry outbursts among members of the audience, while Mtimkulu's mother and her son's two teenage children dropped to the floor, sobbing with grief. Mtimkulu — a member of the Congress of South African Students — vanished in April 1982, shortly

after instituting a R150 000 civil suit against the minister of law and order, claiming he had been poisoned in detention. On the day they disappeared, Madaka fetched Mtimkulu from his home to take him to the Livingstone Hospital in Gelvendale. It was the last time they were seen alive. Erasmus — who gave the order to kill the students — told the committee that former president P W Botha, who chaired the State Security Coun-

cil, must have had knowledge of the security police's elimination of "troublesome activists" who were threatening the government. "I still am under the impression that the politicians knew — they must have been aware of what was going on." The government, said Erasmus, had placed great pressure on the security police to stabilise the deteriorating security situation, and this had allowed for "grey areas"

Ncitha said she had begun to doubt the effectiveness of the amnesty hearings in getting her brother's killers to make a full disclosure. "It's our lawyers against their lawyers. I thought it would be a case of simply listening to the truth, the whole truth. But what have we got here — men who come to tell the truth armed with expensive lawyers?"



TELLING THE TRUTH? Retired generals Gerrit Erasmus (left) and Nic van Rensburg flank Colonel Gideon Nieuwoudt at their amnesty hearing in Port Elizabeth this week.

Mother collapses as cops tell of murder

'My son must have been tortured — and they are not sorry'



DISBELIEVING. Joyce Mtimkulu, whose son, Siphwo, was executed Pictures: COETZEE GOUWS

ST 28/9/97
in their fight against revolutionary elements
"What we did, we did exclusively to safeguard the government of the day."

He said Mtimkulu was involved in mobilising the youth and recruiting students for military training abroad.

Earlier, Erasmus described his upbringing as being steeped in the ruling party's apartheid policies, and recalled former prime minister Hendrik Verwoerd telling him that as a policeman, he had a free hand to suppress communism.

"I couldn't fight communism using the Queensberry rules," he said.

In an interview, Mtimkulu's sister, Zukiswa Ncitha, said her brother's passionate interest in politics and the Black Consciousness Movement had begun when he was a teenager, and the death in detention of Steve Biko in 1977 had been a "turning point" in his life.

"He was fearful of what the police might do to him, yes, but he was courageous in his commitment to the struggle."

Ncitha said she had begun to doubt the effectiveness of the amnesty hearings in getting her brother's killers to make a full disclosure.

"It's our lawyers against their lawyers. I thought it would be a case of simply listening to the truth, the whole truth. But what have we got here — men who come to tell the truth armed with expensive lawyers?"

Congo in for battle over R15-m Johannesburg hotel

By ALL MPHAKI

THE DEMOCRATIC Republic of Congo (DRC) will stop at nothing in its search for the millions looted in the former Zaïre under Mobutu Sese Seko - the country's new government wants to confiscate the R15-million hotel in Bramfontein which is owned by a former girlfriend of Mobutu.

The co-owner, Nzuzi Wa Mbombo, also tops the list of 102 "criminals sought for political murders and the raiding of the national treasury" in the former Zaïre.

The list has been handed over to the South African Department of Foreign Affairs.

What may prove a daunting task for the Laurent Kabila government, however, is that the hotel now has other co-owners - the 2 million strong African Council of Hawkers and Informal Business (Achib), which owns 50 percent, and a consortium of black journalists led by *Sunday Times* reporter Elias Mahleke, which has a 15 percent stake.

Achib's executive president, Lawrence Mavundla, speaking from Durban yesterday, poured cold water on the demands of the DRC, saying "there is no way" they can confiscate the hotel.

"This is a business and we are new co-owners. If our partners owe Kabila's government, that is

their problem. Achib has nothing to do with this matter. We are not involved," Mavundla said.

A counsellor at the DRC Embassy, John Lambert, this week confirmed that the list had been handed over to the South African Department of Foreign Affairs.

He said the people listed had impoverished his country, forcing the embassy to accrue astronomical debts.

What surprised him, he said, was that the South African government had seen it fit to grant permanent residence to some of the "fugitives".

Wa Mbombo served under Mobutu's government in 1986 until she fell out of the dictator's favour and got the boot the same year.

A spokesman for the Orchidea Hotel, Richard Kalala, a son to Wa Mbombo, said there were no legal grounds on which the DRC could confiscate the hotel.

He said he found it strange that his mother also featured on the DRC's most wanted person list, as her mother had had nothing to do with the Mobutu government since 1986.

A spokesperson for the South African Department of Foreign Affairs, Marco Bonn, confirmed receipt of the DRC's list.

The spokesperson added that the catalogue was still subject to an inquiry and it would take a while before those accused were arrested.

A spokesperson for the South African Department of Foreign Affairs, Marco Bonn, confirmed receipt of the DRC's list.

The spokesperson added that the catalogue was still subject to an inquiry and it would take a while before those accused were arrested.

A spokesperson for the South African Department of Foreign Affairs, Marco Bonn, confirmed receipt of the DRC's list.

The spokesperson added that the catalogue was still subject to an inquiry and it would take a while before those accused were arrested.

A spokesperson for the South African Department of Foreign Affairs, Marco Bonn, confirmed receipt of the DRC's list.

The spokesperson added that the catalogue was still subject to an inquiry and it would take a while before those accused were arrested.

A spokesperson for the South African Department of Foreign Affairs, Marco Bonn, confirmed receipt of the DRC's list.

The spokesperson added that the catalogue was still subject to an inquiry and it would take a while before those accused were arrested.

A spokesperson for the South African Department of Foreign Affairs, Marco Bonn, confirmed receipt of the DRC's list.

A history of the duo who promised victims 'fame'

THE TRC heard this week how two Eastern Cape

Cosas activists were drugged, tortured and then shot

and killed by two notorious policemen who spent

hours in a minibus looking for their victims ECN

Weekend Service reports

PORT ELIZABETH - The young man slumped in the wheelchair, his hair falling out from rat killing thallium poison, would become the first martyr of Port Elizabeth resistance to apartheid in the 1980s.

Yes, he had disappeared, the police said.

Probably gone to join the ANC. After all, they had found his constant companion's car at the Lesotho border, the first stage for exile in those days before the infamous Maseru raid ruined all that.

But no one really believed the official version in Zwarte, Kwazakhele and New Brighton they said it was Van Rensburg and Gideon Nieuwoudt.

In that dreaded minibus cruising the township streets at night. Van Rensburg and Nieuwoudt.

Sometimes, and this was Nieuwoudt's favourite, they would drop the priest's gear to visit the families of those they had detained - or helped disappear.

Ex-military intelligence chief for the Ciskei, Colonel Gerrie Hugo, said last year they always used Van Rensburg and Nieuwoudt on East Cape "black ops" missions - abduction and, at best, interrogation.

Nieuwoudt, the convicted and self-confessed killer, whose favour it is line to the defiant was "I'll make you famous".

"Famous" just like Steve Biko, for the death of whom Nieuwoudt sought amnesty from the Truth and Reconciliation Commission in Port Elizabeth two weeks ago.

And the Pebco Three, for which he will apply for amnesty next month.

And Siphiwo Minkulu and Topsy Madaka, for which he was seeking amnesty again this week - with Van Rensburg.

Van Rensburg, the baby-faced blue-eyed charmer, and Nieuwoudt, the last man with Elvis Presley sideburns and a face lined with too many stories you don't want to know.

Together they again, they played straight for once this week. Their former

Meadowlands families struggling against financial ruin as houses fall apart

NINETY SEVEN Meadowlands families are struggling to save themselves from financial ruin after the houses they bought about 10 years ago began falling about their ears.

Council of SA Bankers general manager Sharon Trail on Thursday told Gauteng's standing committee on housing none of the houses were so badly built they were a danger to life and limb. They would have to be demolished, he said. Eleven others needed to have their foundations shored to prevent them collapsing as they were built on uncompresssed ash.

The debacle has led to 17 court judgments against the builders, Pentax, a partnership between a Piet Smut and a Ted Baxter.

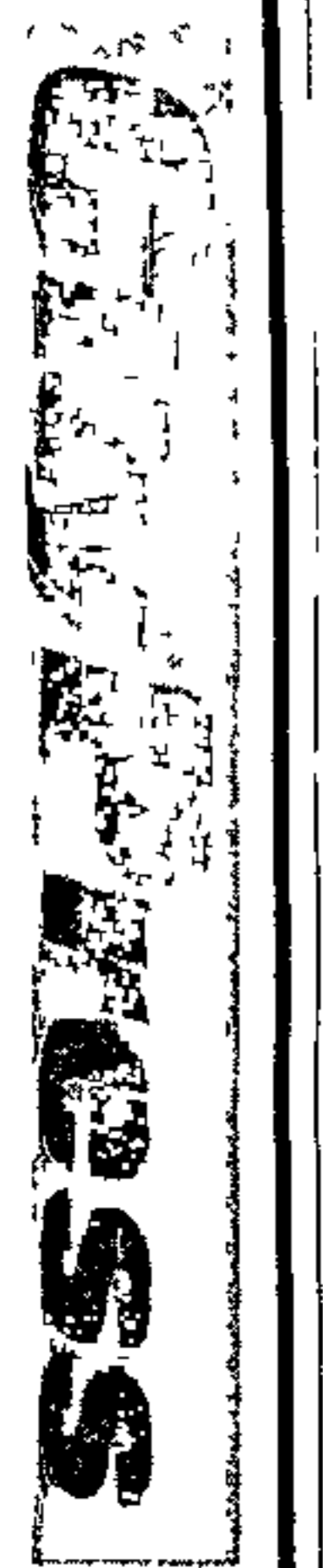
They built houses under various names, but were operating under the name Pen taxes when they built the defective houses in Meadowlands.

The judgements have not helped the house owners. Baxter has gone to England, from

whence he came, and Smut cannot be traced.

Trail told Sapa "This is the most egregious example of absolute exploitation of an experienced first time home buyers I've yet come across".

Johannesburg's Western metropolitan suburb has pledged R1 million towards the costs of repairing the houses. Trail said housing inspectors should be given more authority and the building industry should join the effort to help the Meadowlands 97 - Sapa



THE VICTIM AND HIS KILLER. Student activist Siphiwo Minkulu (above) and Gideon Nieuwoudt (below)



CP 28/9/97 (262)

boss, General Gerrit Erasmus, began by saying he had ordered the killing - "not done lightly I am not a murderer" - because detaining the influential Cosas par would have sparked an uprising thanks to the publicity over the University of Cape Town thallium diagnosis.

Van Rensburg, who says he was also in on the discussions for the "permanent removal" of Matthew Goniwe in 1985, was also part of the chat - and the apartheid government was kept fully informed as usual.

Port Elizabeth In 1982, its township schools on the march behind Cosas, was a "destabilised flashpoint" and Minkulu and Madaka had to be "eliminated", Erasmus told a packed Century Hall in New Brighton this week.

"This, in fact meant 'kill', Erasmus explained.

Van Rensburg and Nieuwoudt stated they had abducted Minkulu and Madaka from near the Port Elizabeth beachfront's isolated Holiday Inn on April 15, 1982.

"They had driven the pair, used to this behaviour from now thequent run ins with the special branch, to Post Chalmers near Craddock.

There, at a disused police station in the remote area, the security police had begun developing their own torture chamber.

Later, in 1986, the Pebco Three would be beaten to death there - after interrogation and drug induced sleep - Minkulu and Madaka were dragged outside to a fire.

Nic van Rensburg shot Minkulu in the back of the head, and Gideon Nieuwoudt did the same with Madaka.

Then the bodies were tossed onto the pyre as the killers stood around - for six hours - until the bones had been completely reduced to ash and scooped into a plastic bag.

Nieuwoudt was alone as he drove to the Fish River and scattered the ashes on the water. He really had managed to make Siphiwo Minkulu and Topsy Madaka famous.

Commission urges Verster to apply for amnesty before deadline

anda Ensor

JARF TOWN — As the truth commission's deadline for amnesty application looms to-norrow night, the commission is trying to persuade former military intelligence agent Johann "Kich" Verster to apply for amnesty, while Afrkaner Weerstandsbeweging (AWB) leader Eugene Terre'Blanche has indicated he will apply today.

A truth commission spokesman said yesterday the commission could not reveal who had applied for amnesty before the extended deadline at midnight tomorrow.

The commission's investigating unit head Dumisa Ntsebeza said from London yesterday that an amnesty application by AWB leader Eugene Terre'Blanche would be of major significance.

Ntsebeza said he would be seeing Verster while in Britain to see if he could assist in expediting his amnesty application.

"If he has made an application I can help in processing it," he said.

It was possible, if the previous expert-ence was anything to go by, that the truth commission might be flooded with new amnesty applications at the deadline to-morrow, Ntsebeza said.

In this event, government would have to appoint new amnesty committee panels so that its work could be completed by the June 30 deadline and it could submit a report by July 30.

Verster, recently convicted in Britain for drug smuggling, has been questioned in the past by Ntsebeza about the 1988 murder of African National Congress (ANC) representa-tive in Paris Dulac September and other third-force activities undertaken by the Directorate of Covert Collections.

He has also been questioned by members of the Gauteng attorney-general's office about the murders of David Webster and Anton Lubowski.

Commenting on the possibility of an amnesty application from Terre'Blanche, as reported in the Sunday Afrikaans newspa-per Rapport yesterday, Ntsebeza said this would be a "major move" as it would show rightwingers their leaders' acceptance of the process, despite their perceptions of its shortcomings.

Terre'Blanche reportedly said he wanted to apply for amnesty to clear his name over the "so-called" politically violent crimes in the past.

One of these was the tarring and feathering of former University of Pretoria se-nior lecturer in history, Professor Floors van Jaarsveld in 1979 which he regretted.

The other was the AWB "siege of Ven-tersdorp" in 1991 when former president

PW de Klerk held a political meeting there. Three people died during the fracas be-tween the AWB and the police.

Meanwhile, Sapa reports former SA De-fence Force (SADF) chief Gen Jannie Geldenhuys might apply for amnesty before the final cut-off.

This followed notice by the commission that Geldenhuys and Gen Kat Labenberg's names were to be mentioned regarding the elimination of ANC activists during

Geldenhuys's term as army chief, Rapport reported.

The activists were killed by special forces operators within the former SADF, the article said.

The newspaper said Geldenhuys's name would surface in the amnesty application of former special forces commander Maj-Gen Joep Joubert.

Joubert applied for amnesty for the

deaths of among others, Fabian Ribeiro and his wife Florence, KwaNdebele cabinet member Piet Ntuli and 12 men, known as the Ntwerdend 12, who were drugged and blown up in Bophuthatswana.

Joubert was expected to testify during a special hearing scheduled to be held on Oc-tober 8-10 in Cape Town.

Geldenhuys was called to testify and would probably face the allegations made against him.

He told Rapport the possibility of an amnesty application was not out of the question, but that he was still consulting legal counsel on the issue.

Joubert said in his application he had worked out a plan under Geldenhuys's in-structions in which special forces soldiers would assist police.

This plan included internal covert oper-ations aimed at "disrupting and stopping

the ANC internally", and included the use of the Civil Co-operation Bureau and the elimination of ANC leaders and activists.

Joubert said he briefly presented his plan to Geldenhuys at the farewell of an Armscor chairman where Geldenhuys al-legedly remarked that the plan "sounded good".

Rapport said because of a shortage of personnel, the plan was implemented only in the Witwatersrand and Northern Transvaal commands.

Meanwhile, former Vlakplaas comman-der Eugene de Kock makes his first public appearance today since being jailed last year, when he joins eight other former po-lice in seeking amnesty for a 1989 car-bombing in which three colleagues and a

police informer were killed.

It will be De Kock's first appearance be-fore the amnesty committee. He has applied for amnesty for a range of crimes.

(552)

BD 29/9/97

Former ministers named in killings

Sowetan 30/9/97

252

RETIRED security police general Nic van Rensburg yesterday implicated two former cabinet ministers and several high-ranking police officers in the activities of the Vlakplaas hit squad at his amnesty hearing in Port Elizabeth.

Van Rensburg said he had no doubt that former law and order minister Mr Adriaan Vlok, police commissioner General Johan van der Merwe and former security police head General Basie Smit knew of Vlakplaas' illegal activities.

"I would also not find it strange that (former defence minister) General Magnus Malan knew about Vlakplaas.

"It was definitely my perception that politicians knew what was happening at Vlakplaas," he said.

Van Rensburg also admitted to helping plan the murder of three black security policemen and a police informer in a bomb blast at Motherwell near Port Elizabeth in 1989.

He is one of nine former security policemen, including former Vlakplaas commander Eugene de Kock, seeking amnesty for the murders.

At the time of the killings, Van Rensburg, then a brigadier, was in command of the security police's C10 section.

Vlakplaas fell under his authority several days before the December 14 bombing, he had been telephoned by a Brigadier Gilbert, then divisional commander of the security police in the Eastern Cape.

He said Gilbert told him a problem had arisen concerning several black security policemen who had begun working with "our friends".



Adriaan Vlok

He took this to mean that the policemen had been recruited by the African National Congress (ANC).

Gilbert also told him a decision had already been made to "make a plan" with the policemen. Van Rensburg said he understood that to

mean they were to be eliminated.

Gilbert had also told him that he had already been in contact with head office, which approved the operation.

"The word that Brigadier Gilbert used was that he had already received the 'okay'. I do not know from whom



Johan van der Merwe



Eugene de Kock

he got the okay but my perception was that it had to be at the level of commissioner or minister.

"General van der Merwe was commissioner of the South African Police (SAP) and Mr Vlok was minister of law and order.

"I would also have expected to get instructions from the head of security police General Basie Smit."

Gilbert had specifically requested the involvement of Vlakplaas in the operation, saying Eastern Cape security police did not have the necessary capacity to carry it out.

He told Van Rensburg he was sending Captain Gideon Nieuwoudt who has also applied for amnesty, to Pretoria to brief him on the situation. This he did the next day at his home when De Kock was also present.

De Kock's lawyer Mr Schaik Hugo asked Van Rensburg why he had asked his client to become involved in the operation when he had already been placed on forced leave following earlier disclosures of hit squad activities at Vlakplaas.

Hugo said normal procedure would have been for Van Rensburg to approach Vlakplaas's acting commander for assistance.

"I trusted De Kock," he replied. "I did not know to what extent I could entrust the operation to the man then in charge (of Vlakplaas)."

During the meeting at his house, Nieuwoudt had told them that several black security policemen had been recruited by the ANC and could pass on sensitive information that would endanger the lives of their colleagues.

There were also fears that the policemen could leak details of the security police's involvement in the murders of Matthew Goniwe and three other United Democratic Front activists in 1985.

"I was satisfied that the decision to eliminate them (policemen) was justified. For this reason I ordered De Kock to help Nieuwoudt" - Sapa

'Approval from top to kill policemen'

Four murdered after security branch decided some members were getting too close to ANC, hearing told

OWN CORRESPONDENT
Port Elizabeth

Authority to murder three black security policemen and an informer by blowing up their car with a limpet mine at Motherwell near Port Elizabeth in December 1989 was given by the head office of the security police

This probably meant that the then head of the security police, General Basie Smit, and/or the commissioner of police, General Johan van der Merwe, and/or the then minister of law and order, Adriaan Vlok, would have approved the operation, the Truth and Rec-

onciliation Commission's amnesty committee heard yesterday

This was the evidence of General Nic van Rensburg, who is one of nine former security policemen applying for amnesty for the car-bomb attack which killed Warrant Officer Glen Mgoduka, Sergeant Amos Faku, Sergeant Desmond Mapipa and informer Xolile Sheperd Sakati, also known as Charles Jack.

The other amnesty applicants are Colonel Gideon Nieuwoudt, Major Gerhard Lotz, Brigadier Wal du Toit, former Vlakplaas commander Colonel Eugene de Kock, Lieutenant-Colonel Jacobus Kok, and for-

mer Vlakplaas operatives Major Marthinus Ras, Lionel Snyman and Snor Vermeulen.

Nieuwoudt, Du Toit and Ras have been convicted of the murders and sentenced to 20, 15 and 10 years in jail respectively. They are on bail, pending an appeal.

The four victims were driving in an unmarked police car on December 14 1989 when it was destroyed in a limpet-mine blast. The mine had been attached by the Vlakplaas operatives and set off by remote control by Nieuwoudt.

It is the first amnesty application by De Kock, who is serving two life sentences after being convicted last year on 89

counts, including six of murder and two of conspiracy to murder.

De Kock, who spent the night at St Albans jail, was driven to the hearings in the Centenary Hall in Ibayi township in an armoured Nyala

Nieuwoudt was expected to testify first, but his counsel, Kobus Booyens, told committee chairman Judge Bernard Ngoepe that Nieuwoudt was ill. He is expected to be fit today or tomorrow

The first to take the witness stand was Van Rensburg, who was a former colleague of Nieuwoudt's in the Eastern Cape security branch and who was head of the security police's C1

section, which included Vlakplaas, in 1989

Van Rensburg said he had been phoned by the then head of the security branch in Eastern Cape, a Brigadier Gilbert, to say they had a problem with some of the black security policemen who had access to sensitive information about their intelligence network who were beginning to work with "their friends" - a reference to the ANC.

Gilbert had told him that had come to the conclusion there was no alternative but to eliminate them.

► Vital ...

De Kock admits to attacks on whites in covert exercise

Port Elizabeth - Unhappy about his portrayal as a racist killer, jailed former Vlakplaas security police base commander Eugene de Kock has told the Truth Commission how he took part in attacks on white homes in Pretoria in a covert police disinformation exercise

In his amnesty application for the 1989 Motherwell car bombing, in which three black policemen and a police informer were killed, De Kock says there is a misconception that all his crimes were aimed at black people

"This is devoid of all truth," he says in the application, made public for the first time at his amnesty hearing in Port Elizabeth yesterday.

De Kock is one of nine former security policemen seeking amnesty for the bombing.

It was his first appearance before the Truth Commission's amnesty committee

Last October, De Kock was sentenced to two life-terms and 212 years after being convicted on 89 charges, including six of murder, two of conspiracy to commit murder and several of fraud.

"It is impossible to recall every single misdeed, operation and incident in which I was involved," he says in the application

"During my trial, a campaign was launched to demonise me and it seems there is a perception that I have a psychopathic personality.

"I still find myself in this unavoidable position, purely because I was a loyal and trustworthy servant of the previous state that was sacrificed while the real guilty



At hearing ... Eugene de Kock

people have walked away from the gruesome past."

He says there was a misconception that the killings in which he was involved were motivated by racism

"I just want to repeat that I

myself was instrumental in the headphone bomb that was sent to (former Vlakplaas turncoat) Dirk Coetzee and had knowledge and approved of actions that were aimed at killing (the late SACP leader) Joe Slovo, Marius Schoon and (Deputy Defence Minister) Ronnie Kasrils

"I also, as part of the so-called Stratcom operations, took part in police attacks on white houses in Pretoria's eastern suburbs"

De Kock says he has no doubt that Vlakplaas was a "political" unit whose existence was evaluated yearly by politicians and police leaders

"This perception was enforced when I and several other Vlakplaas members were forced to resign.

"I had no choice but to resign and take a package when

the political climate changed and the negotiation process with the ANC began to gain momentum."

He again acknowledges that Vlakplaas operatives under his command were responsible for the deaths of several people

"A large number of these people were killed by the IFP with weapons from C1 (unit)"

In his application, he also challenges former police commissioner General Johann Coetzee's claim that there was never a suggestion that unconventional methods should be used to combat terrorism.

"I want to point out that General Coetzee was a prominent figure in a cross-border operation that took place in Swaziland, which I deal with in greater detail in this application." - Sapa

Star 30/9/97 (252)

Former ministers implicated in Vlakplaas activities at amnesty

252
20/09/97

PORT ELIZABETH — Retired police general Nic van Rensburg implicated two former cabinet ministers and several high-ranking police officers in the activities of the Vlakplaas hit squad at his amnesty hearing yesterday.

Van Rensburg said he had no doubt that former law and order minister Adriaan Vlok, police commissioner Gen Johan van der Merwe and former security police head Gen Basie Smit knew of Vlakplaas's illegal activities. "I would also not find it strange that (former defence minister) Gen Magnus

Malan knew about Vlakplaas.

"It was definitely my perception that politicians knew what was happening at Vlakplaas." He also admitted to helping plan the murder of three black security policemen and a police informer in a bomb blast at Motherwell near Port Elizabeth in 1989.

He is one of nine former security policemen, including former Vlakplaas commander Eugene de Kock, seeking amnesty for the murders.

At the time of the killings, Van Rensburg was in command of the se-

curity police's C-10 section Vlakplaas fell under his authority.

De Kock's lawyer, Schalk Hugo, said his client had been deliberately involved in the car-bombing to ensure that he did not testify at the Harms commission against his superiors.

Hugo told the amnesty committee De Kock would testify that he had been on forced leave, following earlier closures of hit-squad activities at Vlakplaas, when he was ordered to help plan the bombing.

Hugo put it to him that there had been a specific reason for including de Kock in the planning. "The reason you involved (him) was to make sure he became involved in these activities (thereby) ensuring that he could not afford to give evidence against the generals during the Harms commission.

"It was of cardinal importance during the Harms commission proceeding that he should testify in favour of the security police. If he did not do that it would be catastrophic for the country and the security forces."

Hugo said it was surprising that Van Rensburg, De Kock's commanding officer at the time, had wanted to include De Kock when his activities were under investigation.

Why, he asked, had Van Rensburg not approached the acting commander of Vlakplaas for assistance?

Van Rensburg said "I trusted Mr De Kock. I did not know to what extent I could entrust the operation to the man then in charge." —Sapa

See Page 2

Hearing

Only a smattering of last-minute amnesty bids

(252) Star 30/9/97

By ROBERT BRAND

A trickle of new amnesty applications have reached the offices of the Truth and Reconciliation Commission ahead of today's final deadline for applications

TRC spokesman Christelle Terreblanche said the commission had received 27 applications since reopening the application process on September 1. She said the commission was expecting "a few more" applications today, but nothing like the last-minute rush which marked the original deadline in May.

The commission has allowed a one-month opportunity for further applications after Parliament extended the cut-off date for amnesty to include offences committed until May 10 1994.

TRC offices in Johannesburg, Cape Town, Durban and East London will be open until

midnight tonight to receive applications.

Among those still expected to hand in applications is Rich Verster, a former military intelligence agent now standing trial in Britain on charges of drug smuggling. TRC investigations head Dumisa Ntsebeza is in Britain to receive Verster's application.

Also expected to submit a last-minute application is Afrikaner Weerstandsbeweging leader Eugene TerreBlanche, who said he wanted amnesty for a number of acts carried out by his supporters.

Former SADF chief General Jannie Geldenhuys had by yesterday given no indication that he was considering a last-minute application.

His attorney, Bernhard van der Hoven, said he had not yet received instructions from Geldenhuys to submit an appli-

cation for amnesty.

It was reported at the weekend that Geldenhuys was considering applying for amnesty after being implicated in the elimination of government opponents by members of the Special Forces unit.

Former Special Forces commander Major-General Joep Joubert has admitted the involvement of Special Forces operatives under his command in the murder of Mamelodi doctor Fabian Ribeiro and his wife Florence, as well as the killing of several other activists.

Joubert reportedly claims in his written application that Geldenhuys had approved the use of Special Forces operatives in internal operations against government opponents during the late 1980s.

The operations were carried out by the secretive Civil Co-operation Bureau.

Widow willing to forgive AWB tarring, feathering

OWN CORRESPONDENT

PRETORIA The widow of Afrikaner historian Floors van Jaarsveld says she is willing to forgive AWB leader Mr Eugene Terre'Blanche for the tarring and feathering of her husband by supporters of the right-wing movement.

Mrs Helet van Jaarsveld was reacting yesterday to weekend reports that Terre'Blanche might apply for amnesty for the tarring and feathering incident in 1979.

She said she would be willing to forgive him, but declined to comment on whether the AWB leader should receive amnesty for his actions.

Her three sons were opposed to amnesty, she said.

Van Jaarsveld was tarred and feathered at a symposium at Unisa allegedly because he was going to criticise the Day of the Covenant (December 16) which, since 1994, has been celebrated as the Day of Reconciliation.

"He (Van Jaarsveld) had never intended that the day be scrapped as Terre'Blanche claimed," Mrs Van Jaarsveld said.

"He just wanted the day to be celebrated like General (JBM) Hertzog had intended, with the day being holy for Afrikaners and that others could celebrate it whichever way they liked."

The Van Jaarsveld family had received many threatening phone calls after the incident and once an arrow was shot into their Lynnwood home.

Mrs Van Jaarsveld said the incident had caused her husband much suffering because he was shunned afterwards by many cultural organisations that had regularly invited him to speak. Van Jaarsveld was head of the University of Pretoria.

30/9/97

2523



REPENTANT? A file picture of Afrikaner Weerstandsbeweging leader Eugene Terre'Blanche

na's department of history at the time

In June 1979, Terre'Blanche and nine members of the AWB were fined R600 and R400, respectively, after being found guilty of criminal injury with intent to impair Van Jaarsveld's dignity.

Deadline looms for amnesty bids

WITH the deadline of midnight today looming for amnesty applications, the Truth and Reconciliation Commission had received 27 applications by yesterday afternoon from people taking advantage of the month-long period of grace.

Afrikaner Weerstandsbeweging leader Mr Eugene Terre'Blanche was not among them, a TRC spokeswoman said.

Terre'Blanche was reported to have said he intended to apply in connection with the "Battle of Ventersdorp", in which his supporters wrecked a National Party meeting, and the tarring and feathering of a University of Pretoria academic.

Former chief of the army General Janne Geldenhuys had not given any indication by yesterday that he was considering applying, his lawyer said. Weekend news reports suggested Geldenhuys might apply for amnesty as he had received notice that his name was to be mentioned at a special TRC hearing next month.

Geldenhuys is expected to be named in the amnesty application by former special forces commander Major-General Joep Joubert.

The application covers the deaths of Dr Fabian Riberio and his wife, Florence, former KwaNdebele cabinet member Mr Piet Ntshu and 12 men who were blown up in Bophuthatswana.

Spokeswoman Ms Christelle Terreblanche said TRC offices throughout the country would remain open until midnight today.

She thought many more applications would arrive at the last minute. As with previous deadlines, a postmark would serve as a guarantee for mailed applications.

Terre'Blanche said she was unable to release applicants' names until hearings had been scheduled and witnesses notified — Sapa

General 'gave go-ahead' for bombing

PORT ELIZABETH Retired security policeman General Nic van Rensburg yesterday admitted giving the go-ahead to former Vlakplaas commander Eugene de Kock to kill three black security policemen and a police informer suspected of working for the ANC

Several days after giving the instruction to De Kock, policemen W/O Glen Mgoduka, Constable Desmond Mapipa, Sergeant Amos Faku and informer Mr Charles Jack were killed in a car bomb explosion near Motherwell township in Port Elizabeth on December 14, 1989

De Kock's lawyer Mr Schalk Hugo yesterday said his client would testify that he was deliberately involved in planning the bombing to ensure that he did not testify against his superiors at the Harms Commission of Inquiry

Van Rensburg testified that several days before the bombing, he was telephoned by a Brigadier Gilbert, then divisional commander of the security police in the Eastern Cape. Gilbert, who has since died, requested Vlakplaas' direct assistance in dealing with several security policemen who were suspected ANC recruits

"The words that Brigadier Gilbert used was that he had already received the 'okay'," he said

"My perception was that it (the 'okay') had to be at the level of commissioner or minister. General (Johan) van der Merwe was commissioner of the SAP and Mr (Admaan) Vlok was minister of law and order — Sapa

'ELIMINATION OF ANC ACTIVISTS WAS NECESSARY'

We also attacked whites, says De Kock

CT 30/9/97

PORT ELIZABETH: Eugene de Kock has challenged former police commissioner General Johann Coetzee's claim that unconventional methods were never used against "terrorism"

Unhappy about his portrayal as a racist killer, jailed former Vlakplaas security police base commander Eugene de Kock has told the Truth and Reconciliation Commission how he took part in attacks on white homes in Pretoria's eastern suburbs in a covert police disinformation exercise

In his amnesty application for the 1989 Motherwell car bombing — in which three black policemen and a police informer were killed — De Kock says there is a misconception that all his crimes were aimed at black people

"This allegation is void of all truth," he says in the application made public for the first time at his amnesty hearing in Port Elizabeth yesterday

De Kock is one of nine former security policemen seeking amnesty for the car bombing

In October last year De Kock was sentenced to two life-terms and 212 years' imprisonment after being convicted on 89 charges, including six of murder, two of conspiracy to commit murder and

several of fraud

"It is impossible to recall every single misdeed, operation and incident in which I was involved," he said in the application "During my trial, a large-scale campaign was launched to demonise me and it appears to me as if there is a general perception that I have a psychopathic personality or at least psychopathic tendencies

"I still find myself in this unavoidable position, purely because I was a loyal and trustworthy servant of the previous state that was sacrificed while the real guilty people have walked free and walked away from the previous gruesome past"

There was also a misconception that the killings in which he was involved were motivated by racism, he said

"I just want to repeat that I myself was instrumental in the headphone bomb that was sent to (former Vlakplaas turncoat) Dirk Coetzee and had knowledge and approved of actions that were aimed at killing (the late SA Communist Party leader) Mr Joe Slovo, Mr Mar-

ius Schoon and (Deputy Defence Minister) Mr Ronnie Kasrils "

"I also, as part of the so-called Stratcom operations, took part in SAP attacks on white houses in Pretoria's eastern suburbs "

He said he had no doubt that Vlakplaas was a "political" unit which was evaluated yearly by politicians and the police leadership

He again acknowledged that Vlakplaas operatives under his command were responsible for the deaths of a number of people

"A large number of these people killed were killed by the Inkatha Freedom Party with weapons from C1. This death and destruction that was sown was nothing more than state-sanctioned violence "

In his application, he also challenged former police commissioner General Johann Coetzee's claim that there was never a suggestion that unconventional methods should be used to combat terrorism

"I want to point out that General Coetzee was a prominent figure in a cross-border operation that took place in Swaziland which I deal with in greater detail in this application

"The elimination of ANC activists and their allies was necessary in light of the fact that the activists were involved in several serious acts of terror " — Sapa



Pay up or lose out, municipal debtors warned

Deborah Fine

DURBAN — A senior government official has warned that without a "fundamental improvement" in municipal payment levels and the short-term cash requirements of local authorities, municipalities could "not even begin to consider" addressing historical backlogs in service delivery.

Jackie Manche, chief director of the constitutional development department's local government finances unit, was delivering a speech on behalf of Constitutional Development Minister Vali Moosa at a conference of the Institute of Municipal Finance Officers yesterday.

Manche said recent departmental surveys of 640 municipalities countrywide indicated that the "general financial health of municipalities is not acceptable".

The total outstanding amount owed to local authorities nationwide as a result of nonpayment for services stood at R7,9bn in June this year. Combined with stunted payment levels, this meant an average cash shortfall of about R8bn a year.

Although payment for services countrywide had stabilised at about 70%, further studies had indicated that up to 30% of municipal customers were not regular payers. It was estimated that up to 1 263 000 municipal accounts re-

mained unpaid each month, meaning that up to R4bn was "unnecessarily tied up in debt", she said.

Manche said that if municipalities were to normalise payment levels and release these funds, this could finance an infrastructure investment programme of between R17bn and R22bn, equivalent to at least twice the annual capital budgets of all local authorities.

In addition, bank balances and investment held by municipalities at present totalled R7,3bn, indicating that sufficient capacity did not exist to cover the outstanding debts of R7,9bn.

Institute president Henne Venter said many municipalities were

using their available services and capital funds to finance operating expenditures and the nonpayment of debtor accounts, as well as to offset their inability to attract external capital finance.

"This is a totally unacceptable situation," Venter said. Manche said there were signs of political and community interference in administrative processes.

The situation was not "without hope" and local authorities could turn themselves around if they rigorously followed cost-cutting and other corrective procedures. This had been demonstrated already in Gauteng, where municipalities had recovered more than

R1,9bn in outstanding payments "in a matter of weeks" after tough credit control action against nonpayers and relief programmes for the genuinely indigent.

The department would continue to monitor local authorities, intervening with financial management support programmes where necessary and spearheading training for officials and councillors.

The department was assisting the training board to develop training modules.

Training was scheduled to begin later this year and was expected to improve the capacity of up to 3 000 local government officials over a two-and-a-half-year period.

No unity govt for Western Cape — Kriel

Linda Ensor

CAPE TOWN — Western Cape premier Hennis Kriel yesterday ruled out any possibility that the former government of provincial unity between the National Party (NP) and the African National Congress (ANC) would be resurrected.

The ANC in the province has been seeking ways to salvage the unity government, which was ditched by the NP during the last round of negotiations on a provincial constitution.

The move entails the loss of the health, economic affairs, transport and sport portfolios currently held by ANCMECs Kriel said in an interview

yesterday he would invite one or two ANC provincial MPs to serve on the cabinet, although the ANC has so far indicated it would accept only four or none.

The establishment of a multiparty cabinet could be a stepping stone to creating a "formidable" opposition to the ANC. This could possibly lay the foundation for national alliances formed between opposition parties in the runup to the 1999 elections, he said.

"If it develops, after 1999 you may find new developments taking place — stronger alliances, stronger working relationships and possibly the formation of a new party. On the other hand, Kriel con-

ceded the ANC's nonparticipation in the provincial cabinet was likely to end in its consolidation as a party in opposition.

He also admitted that being out of government would give the ANC the chance to make political capital out of the NP's mistakes in government. The party was prepared, however, to take this responsibility, he said.

"It turned out that more and more they were using their positions in cabinet to make propaganda for the ANC," he said.

Regarding the effect in the Western Cape of the newly formed United Democratic Movement (UDM) of Roelf Meyer and Bantu Holomisa, Kriel said this was difficult to evalu-

ate. However, he did not believe the new political movement would have much effect on the NP's support base.

He predicted the UDM would carefully select a local by-election in the Western Cape in a predominantly white, upper class suburb to test the water. They would probably put up a very good candidate and pour considerable resources into the campaign.

"I doubt whether their first venture will be into the black townships," Kriel said. He also predicted Meyer would disappear from politics ultimately, as Holomisa was unlikely to want to share the leadership when he was bringing in all the support

Nieuwoudt gets amnesty for training IFP group

Linda Ensor

CAPE TOWN — The amnesty committee of the truth commission has granted amnesty to former military intelligence Lt-Col Anton Nieuwoudt for providing offensive military training to Inkatha Freedom Party (IFP) members in Namibia in 1986.

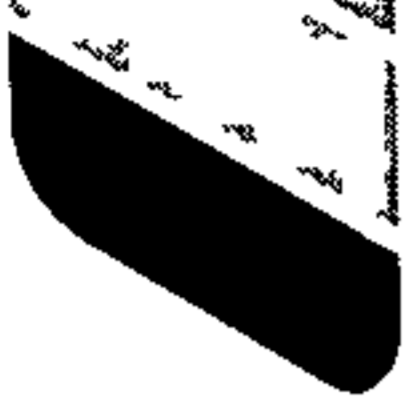
The 200 IFP members were trained at the Hippo base in Caprivi for action against African National Congress (ANC) and United Democratic Front (UDF) members in KwaZulu-Natal. The aim of the training was allegedly to attack and eliminate enemy targets. Nieuwoudt said he had undertaken the training on the instruction of former SA Defence Force (SADF) Gen Thème Groenewald, now a Freedom Front MP. Others cited by Nieuwoudt as being involved with the training were Col Jan Breytenbach and Maj Jakes Jacobs.

The amnesty committee decided in chambers to grant amnesty without holding a public hearing as Nieuwoudt's application did not specify offences which constituted gross human rights violations.

Nieuwoudt said in his amnesty application that for a month he had trained the IFP group — led by Daluxolo Luthuli — on information gathering, interrogation, target development and infiltration.

Nieuwoudt admitted that the trainees would have been capable of eliminating ANC targets without leaving clues and were trained in foreign weaponry. This could have resulted in loss of life, although Nieuwoudt did not know of anyone who died at the hands of his trainees.

Nieuwoudt testified that the State Security Council had approved the training.



HARWILL INVESTMENTS LIMITED

(Registration number 84/07492/06)

Audited results for the year ended 30 June 1997

ADDRESS: ROSSIGNOL TRAFLET

1997

1998

De Kock 'forced into car bomb plot'

(252) ARLG 30/9/97

Port Elizabeth - Eugene de Kock will tell the Truth Commission he was ordered to get involved in the Motherwell car-bomb murders in 1989 to ensure he did not testify against police generals before the Harms Commission in 1990.

His advocate, Schalk Hugo, disclosed this during his cross-examination of De Kock's Vlakplaas boss, General (then brigadier) Nic van Rensburg, during yesterday's

PW called (252)

to testify on

activities of

securocrats

From page 1

subpoena His lawyers said yesterday that for health reasons, he would not be able to attend the hearing in Johannesburg on October 14, and asked for the subpoena to be withdrawn. We indicated we would not withdraw the subpoena, but requested a medical certificate - which has been supplied - and a full medical report, and we are exploring an alternative date for his appearance.

"General Magnus Malan, former Minister of Defence, and Mr Adriaan Vlok, Minister of Law and Order, have also been subpoenaed to the State Security Council hearing, as has General Pieter van der Westhuizen, a former secretary of the SSC.

"In addition to the subpoenas, notices have been served on 25 former military and political figures from former government and ANC forces indicating that they will be implicated during the hearings in a manner which may be to their detriment."

Those who will give evidence at the armed forces hearing include General Constand Viljoen and General J J Geldenhuys, former chiefs of the SADF, Major General A J M ("Joep") Joubert, former head of SADF Special Forces, General Johan van der Merwe and General Johan Coetzee, former commissioners of police, Brigadier Willem Schoon, a former head of Section C of the Security Branch, Abubaker Ismail and Minister of Transport Mac Maharaj, and Johnson Mlambo, former Apia commander-in-chief.

amnesty hearing of the Truth Commission
General Van Rensburg, De Kock and seven other former security policemen are applying for amnesty for the murder of three black security policemen and an informer who died when a police vehicle packed with explosives was blown up while they were travelling in it.

During his questioning, Mr Hugo disclosed that De Kock would testify

that he was on compulsory leave in December 1989 pending investigations of Vlakplaas operations before the Harms commission of inquiry into state-sponsored murders.

However, he had been called in by General Van Rensburg and ordered to help with the car bomb operation, said Mr Hugo.

De Kock had objected to killing the policemen because he had been told their assassination was for fraud they

had allegedly committed, but he was overruled by General Van Rensburg. General Van Rensburg denied a suggestion by Mr Hugo that the real reason he had involved De Kock in the Motherwell operation was to ensure he was deeply implicated in "hit-squad" activities and could not testify against police generals before the Harms Commission.

De Kock will testify later this week



LEON WILHELM

I'm not a racist - De Kock

Port Elizabeth - Former Vlakplaas commander Eugene de Kock has told the Truth Commission he is not a racist and that his operations against whites proved he did not commit violence solely against blacks.

In a 56-page explanation attached to his amnesty application for the Motherwell car-bomb murders of three black security policemen and an informer, De Kock says he is not a psychopath but merely "a product of a certain education style."

He says he was further shaped by his training, which was largely of a military nature within the apartheid milieu

Strongly denying allegations that he is racist, De Kock says several of his operations against whites help prove this. Such operations include sending a parcel bomb to his Vlakplaas predecessor, Dirk Coetzee.

Being involved in an assassination attempt against the late Joe Slovo, Ronnie Kasrils (now Deputy Defence Minister) and African National Congress member Marius Schoon.

Planning and executing "certain actions" against Peter Vale, director of the Centre for SA Studies at the University of the Western Cape.

Taking part in police covert operations, which involved attacks on white-owned houses in Pretoria

Amnesty bid deadline looms

ARLG 30/9/97

Johannesburg - A trickle of new amnesty applications has reached the offices of the Truth and Reconciliation Commission ahead of today's final deadline for applications.

TRC spokesman Christelle Terrebanché said the commission had received 27 applications since reopening the application process on September 1.

Ms Terrebanché said TRC offices in Johannesburg, Cape Town, Durban and East London would be open until midnight tonight to receive applications - Argus Correspondent

Police used bugs to spy on suspected

ANC double agents

(252) ARLG 30/9/97

Car-bomb murder disclosure



ON THE TRUTH COMMISSION

Port Elizabeth - Eastern Cape security policemen installed listening devices in their own offices and tearoom to spy on four black colleagues they suspected of being double agents for the ANC, the Truth Commission's amnesty committee was told today.

The three black security policemen men and an Askari (turned Umkhonto weSizwe soldier) were later murdered in a huge car-bomb explosion at Motherwell, near here, in December 1989.

Gideon Nieuwoudt, who is one of nine former security policemen applying for amnesty for their murders, also told the amnesty committee he had arranged for the suspected men's outgoing and incoming post to be intercepted by an agent at the post office, and had then steamed it open and read it.

Nieuwoudt is one of three of the nine amnesty applicants convicted of the murders and who are on bail pending an appeal against long jail sentences.

He told the committee he had been appointed regional commander of the security police's intelligence unit in June 1989.

Within a month of his appointment he became aware of a "serious leak" in their intelligence network. This leak had led to a courier, who



LEON WILHELM

Contemplative: former security boss Nic van Rensburg listens to evidence

was being sent to Swaziland with a letter purporting to come from an ANC cadre asking for weapons to be sent, to be captured by the ANC and held at its Quatro detention camp in Angola.

In another instance, an agent had been murdered in Lesotho after being unmasked as a result of the leaks.

Nieuwoudt said other security branch agents had also been murdered, but he was not prepared to give their names to the Truth Commission because he believed their relatives could still be ostracised by the community or even physically attacked.

He said he had become suspicious of one of the three black security policemen, Warrant Officer Glen Mgoduka, who had worked for the security branch since 1977.

After discussions with his commanding officer, a Brigadier Gilbert, he had started investigating the apparent leaks and had installed the

listening devices.

After about a fortnight, one of the devices recorded a conversation between Warrant Officer Mgoduka and the three other men later murdered: Sergeant Amos Faku, Sergeant Desmond Mapipa and an Askari, Xolile Sakatu, also known as Charles Jack.

This was to the effect that they had "put out feelers" to a relation of Warrant Officer Mgoduka who was directly involved in the freedom struggle, in an attempt to restore their credibility in the eyes of the community.

Nieuwoudt also said that the intercepted letters had been to and from the Roma Church in Lesotho, a John Smith in London and people in Canada and Germany, which were known cover addresses for the ANC.

The letters had appeared normal but had included coded phrases and dates which referred to events such as the arrival of couriers or agents.

Handwritten: **Heinard**

collaboration with officials in the Department of Home Affairs and the South African Police Service, if not, what is the position in this regard, if so, what are the relevant details?
N2044E

THE MINISTER FOR SAFETY AND SECURITY

Yes information cannot be disclosed due to the sensitive nature of current investigations

Crisis in public prosecutor's offices

*8 Mr D H M GIBSON asked the Minister of Justice

(1) What was his or his Department's response to the statement contained in the 1996 report of the Attorney-General of Gauteng, to the effect that hardly any action had been taken by the State to alleviate the crisis in public prosecutors' offices as a result of low levels of experience and the freezing of posts, as highlighted in the said Attorney-General's report for the previous year.

THE MINISTER OF JUSTICE

(1) The staff turnover in the State Prosecutor's Division has a negative impact on the experience levels of prosecutors. The concern raised by the Attorney-General in his 1996 report is shared. The low levels of experience is addressed on a continuous basis

(2) The Department embarked on the implementation of various steps to address the problem eg

(a) Vacancies of Public Prosecutor is advertised within the Department with a view to the even redistribution of experience, knowledge and skills of prosecutors.

(b) Attempts are made at every instance to address problems at specific offices in liaison with the Attorneys-General.

(c) To make an impact on the principle of fast tracking the Department appointed 100

trainee prosecutors additional to the

establishment. They have been allocated to experienced tutors and are receiving intensive training. Their appointments after the training programme will have a positive impact on the low levels of experience.

(d) Various formal training courses are presented at Justice College. The number of prosecutors who can be catered for is however limited

Position on ability of schools to employ staff at their own expense

*9 Mr M J ELLIS asked the Minister of Education

Whether, with reference to his reply to Question No 3 on 23 April 1997, he has finalised his position on the ability of schools to continue to employ additional staff at their own expense at the end of 1997, if not, (a) why not and (b) what has caused the delay, if so, what is this position?
N2047E

THE MINISTER OF EDUCATION

Yes, I have finalised my position, which is contained in Section 6 of the School Laws Amendment Bill tabled recently. This amends Section 20 of the South African Schools Act, and if passed will allow the governing body of public schools to establish additional posts for educators and non-educators

Establishment of special courts

*10 Mr M A MZIZI asked the Minister of Justice

Whether he will consider the establishment of special Courts, presided over by local individuals of good standing selected by members of the community, to deal with petty crimes so as to expedite criminal justice proceedings, if not, why not, if so, what are the relevant details?
N2048E

THE MINISTER OF JUSTICE

The Department has a strategic plan for the transformation and rationalization of the administration of Justice known as *Justice Vision 2000*

In terms of this strategic plan, the Department is planning to establish support and use Community

based dispute resolution services and integrate them into Community Court Systems, including traditional Courts, Small Claims Courts and Community Legal Centres

This will include developing a national framework for community-based Alternative Dispute Resolution (ADR) Mechanisms to maintain national standards and facilitate relationships between the Department of Justice, NGOs and other Organizations involved in Alternative Dispute Resolution

This national framework will ensure an effective and sustainable role for Community-based Alternative Dispute Resolution institutions in the justice system. A pilot project on petty crimes will be designed and implemented, possibly with the involvement of justices of the Peace and Local Government Structures. The Department is developing business plans in this report, and their implementation will be a priority

In this way petty cases will be dealt with outside ordinary courts of law, thereby enabling courts to concentrate on more serious offences

Access of small to medium-sized enterprises to Small Claims Court

*11 Mr M A MZIZI asked the Minister of Justice

Whether, in the light of the fact that the Small Claims Court is in terms of current legislation permitted only to hear cases involving individuals, he will consider introducing legislation giving small to medium-sized enterprises access to this court in respect of petty claims, if not, why not, if so, what are the relevant details?
N2049E

THE MINISTER OF JUSTICE

The Small Claims Courts were instituted at the recommendation of the 1984 Hoexter Commission of Inquiry into the Structure and Functioning of the Courts. They were and still are intended to serve the interests of men and women. In order to prevent these courts degenerating into debt-collecting forums and defeating their aim and objective, namely to reduce legal costs and to enhance accessibility to the courts, special steps were put in place and are still in place to ensure that they do not become dominated by debt-collecting agencies and businesses, many of which

are juristic persons. Hence the current legal position that only natural persons may institute an action in these courts. Whilst this argument still holds good, it might be expedient to revisit the entire issue by looking at ways of accommodating deserving cases, which are presently excluded from the ambit of the Act. This should, in my opinion, only be done if it can be done without undermining the foundation of the Small Claims Court Act, 1984. I have instructed my Department to look into the matter

Sitting of Truth and Reconciliation Commission in Namibia

*12 Mr J W MAREE asked the Minister of Justice

(1) Whether the Government or the Truth and Reconciliation Commission has put a request to the government of Namibia to obtain permission to hold sittings of this commission in Namibia, if so,

(2) whether the Government or the Commission has received a reply from the government of Namibia if so, what was the reply?
N2050E

THE MINISTER OF JUSTICE

(1) No
(2) Falls away

Informal settlement in close proximity to N2 in Butterworth

*13 Mr G Q M DOIDGE asked the Minister of Transport

(1) Whether the Regional Engineer's department of the Eastern Cape intends taking any steps in regard to the informal settlement in close proximity to the N2 in Butterworth in the Eastern Cape, if not, what is the position in this regard, if so, what steps,

(2) whether any planning has been done to ensure that pedestrians in the area are not in danger of being run over by vehicles, if not, (a) why not and (b) when will the matter receive attention, if so, what are the details of such plans,

Howard

Cape Town metropolitan area: police officers

1038 Mr D H M GIBSON asked the Minister for Safety and Security

- (1) How many police officers were stationed (a) within, and (b) at each police station in, the Cape Town metropolitan area on 1 July (i) 11996 and (ii) 1997.

(2) whether the figures in respect of any of these dates indicate a shortage of police officers in the said area and/or at the said police stations, if so, (a) what was the percentage shortage in each case and (b) what was the actual shortage in the number of police officers stationed in the area and/or at each police station.

(3) whether the figures in respect of any of these dates indicate an overstaffing of police officers in the area and/or at the said police stations, if so, (a) what was the percentage overstaffing in each case and (b) what was the extent of overstaffing in respect of the number of police officers stationed in the area and/or at each police station.

(4) whether any steps have been taken to rectify imbalances between police stations in respect of staff numbers, if so, (a) what steps and (b) with what measure of success?

The MINISTER FOR SAFETY AND SECURITY

- (1) (a) 7 539
- (ii) 8 222

(b) (i) and (ii) Please see Annexure A

(2) (a) and (b) See Annexure A

(3) (a) and (b) See Annexure A

(4) Yes

(a) Steps being taken to address these imbalances are the lifting of the moratorium on recruitment, the Resource Utilization Program and the redistribution of all resources throughout the South African Police Service

(b) These processes are being implemented

Stations	Actual	1996	%	Shortage	Surplus	3 (a)	%	1997	2 (a)	%	Shortage	3 (b)	%
Wynberg	220	221	0.00	0	1	0.45	227	0.00	0	0.00	0	7	3.18
Simonstown	44	6	86.36	38	0	0.00	28	36.36	16	0	0	0	0.00
Mulzenberg	144	67	53.47	77	0	0.00	77	46.53	67	0	0	0	0.00
Hout Bay	109	55	47.62	50	0	0.00	52	50.48	53	0	0	0	0.00
Claremont	195	112	42.56	83	0	0.00	100	48.72	95	0	0	0	0.00
Kirstenhof	106	56	47.17	50	0	0.00	61	42.45	45	0	0	0	0.00
Manga	288	197	31.60	91	0	0.00	203	29.51	85	0	0	0	0.00
Gugulethu	185	215	0.00	0	30	13.95	200	0.00	0	15	8.11	0	0.00
Philippi	159	123	22.64	36	0	0.00	122	23.27	37	0	0	0	0.00
Mitchells Plain	684	347	49.27	337	0	0.00	357	47.81	327	0	0	0	0.00
Fish Hoek	94	91	3.19	3	0	0.00	73	22.34	21	0	0	0	0.00
Rondebosch	114	80	29.82	34	0	0.00	58	49.12	56	0	0	0	0.00
Manbray	111	47	57.66	64	0	0.00	51	54.05	60	0	0	0	0.00
D-r-p River	136	68	50.00	68	0	0.00	63	53.68	73	0	0	0	0.00
Steenberg	177	88	50.28	89	0	0.00	90	49.15	87	0	0	0	0.00
Athlone	189	307	0.00	0	118	38.44	279	0.00	0	90	47.62	0	0.00
Grassy Park	155	107	30.97	48	0	0.00	106	31.61	49	0	0	0	0.00
Landsdowne	124	80	35.48	44	0	0.00	82	33.87	42	0	0	0	0.00
Manenberg	178	108	39.33	70	0	0.00	108	39.33	70	0	0	0	0.00
Cape Town Central	625	1265	0.00	0	640	50.59	1289	0.00	0	664	106.24	0	0.00

Stations	Actual	1996	%	Shortage	Surplus	3 (a)	%	1997	2 (a)	%	Shortage	3 (b)	%
Camps Bay	65	6	90.77	59	0	0.00	26	60.00	39	0	0.00	0	0.00
Langa	125	99	20.80	26	0	0.00	26	23.20	29	0	0	0	0.00
Pindlans	107	40	62.62	67	0	0.00	48	55.14	59	0	0	0	0.00
Table Bay Harbour	111	65	41.44	46	0	0.00	65	41.44	46	0	0	0	0.00
Ocean View	69	0	0.00	0	0	0.00	23	66.67	46	0	0	0	0.00
Kensington	86	48	44.19	38	0	0.00	48	44.19	38	0	0	0	0.00
Matieland	133	185	0.00	0	52	28.11	649	0.00	0	516	387.97	0	0.00
Sea Point	204	126	38.24	78	0	0.00	127	37.75	77	0	0	0	0.00
Woodstock	206	106	48.54	100	0	0.00	96	53.40	110	0	0	0	0.00
Khayelitsha	453	316	30.24	137	0	0.00	319	29.38	134	0	0	0	0.00
Strand	168	94	44.05	74	0	0.00	100	40.48	68	0	0	0	0.00
Table View	107	51	52.34	56	0	0.00	52	51.40	55	0	0	0	0.00
Athlone	206	136	33.98	70	0	0.00	132	35.92	74	0	0	0	0.00
Bellville South	313	217	30.67	96	0	0.00	296	5.43	17	0	0	0	0.00
Goodwood	171	122	28.65	49	0	0.00	136	20.47	35	0	0	0	0.00
Kuils River	475	820	0.00	0	345	42.07	813	0.00	338	71.16	0	0	0.00
Elises River	176	153	13.07	23	0	0.00	147	16.48	29	0	0	0	0.00
Brackenell	105	84	20.00	21	0	0.00	69	34.29	36	0	0	0	0.00
Bishop Lays	220	165	28.26	55	0	0.00	151	34.35	19	0	0	0	0.00
Maassar	87	82	5.75	5	0	0.00	51	41.38	36	0	0	0	0.00
Mulertown	181	120	33.70	61	0	0.00	124	31.49	57	0	0	0	0.00
Melkbosstrand	54	6	88.89	48	0	0.00	29	46.30	15	0	0	0	0.00
Bellville	325	232	28.62	93	0	0.00	303	6.77	22	0	0	0	0.00
Durbanville	89	59	33.71	30	0	0.00	62	30.34	27	0	0	0	0.00
Kraaifontein	250	154	38.40	96	0	0.00	151	39.60	99	0	0	0	0.00
Parow	284	149	47.54	135	0	0.00	206	27.46	78	0	0	0	0.00
Ravensmead	161	102	36.65	59	0	0.00	102	36.65	59	0	0	0	0.00
Gordons Bay	55	47	14.55	8	0	0.00	50	9.09	5	0	0	0	0.00
Somerset West	173	115	33.53	58	0	0.00	125	27.75	48	0	0	0	0.00

SAPS: witness protection programmes

1065 Mr A J LEON asked the Minister for Safety and Security

- (1) (a) How many persons are currently protected under the South African Police Service's witness protection programmes and (b) in respect of what date is this information furnished.

(2) whether any persons protected under witness protection programmes (a)(i) were killed, (ii) were injured and (iii) reported

that they were being threatened or intimidated during the latest specified period of three years for which information is available and (b) what was the total number of persons who were protected under witness protection programmes during this period

(3) what procedures are generally employed in providing such witness protection.

(4) whether such witness protection programmes have been found to provide adequate protection, if so, what are the relevant details, if not, why not.

252

7

7

Hansford

(5) whether he or the SAPS has taken or intends taking any steps in this regard, if not, what is the position in this regard, if so, what steps?
N1818E

THE MINISTER FOR SAFETY AND SECURITY

The Witness Protection Programme is managed by the Department of Justice. The South African Police Service only performs a supporting role with regard to the Programme and acts as provincial co-ordinators in the operationalisation and protection of witnesses.

It is suggested that the Minister of Justice be approached to furnish details regarding this question.

Illegal gambling operations closed down

1070 Mr D H M GIBSON asked the Minister for Safety and Security

(a) How many illegal gambling operations were closed down by the South African Police Service in (i) Gauteng, (ii) the Western Cape and (iii) KwaZulu-Natal during the period 1 January 1997 up to the latest specified date for which information is available and (b) how many man-hours were spent in this regard in each of these provinces during this period? N1823E

THE MINISTER FOR SAFETY AND SECURITY

[Latest specified date 1997-08-13]

(a) (i), (ii) and (iii) See previous reply to Question No 904 asked by Mr L T Landers on Friday, 1 August 1997 (*Reply bound in Annexures of House - M 358/97*)

(b) To obtain this information a task team will have to be formed in each province by withdrawing members from other important duties and placing an extra burden on the already limited manpower due to the fact that members perform a wide variety of functions. Furthermore, keeping registers on the amount of time spent on each function will be time-consuming and an extra burden on the

members and financial resources

Comments

To obtain the numbers closed down from 1 January 1997 would entail a lot of extra work placing an extra burden on the already limited manpower hence the numbers closed since 1 July 1996 are given

Police officers at police stations in Gauteng

1071 Mr D H M GIBSON asked the Minister for Safety and Security

(1) (a) How many police officers had been appointed to each specified rank at the police stations at (i) Orlando, (ii) Protea Glen, (iii) Jabulani, (iv) Meadowlands, (v) Moroka, (vi) Brixton and (vii) Alexandra as at the latest specified date for which information is available, (b) what number out of the total number of officers at each of these stations fill administrative positions, (c) what was the absenteeism rate at each of these stations during the latest specified 12-month period for which information is available, (d) what is the average number of years of experience of police officers at each of these stations and (e) how many officers at each of these stations have (i) not passed matric, (ii) passed matric but have no further qualifications and (iii) a post-matric qualification.

251

Police Stations	(i)	(ii)	(iii)	(iv)	(v)	(vi)	(vii)
Director	1	2	1	1	1	1	1
Senior Superintendent	1	1	2	1	2	2	2
Superintendent	2	1	3	2	5	2	2
Captain	7	5	7	11	11	9	6
Inspector	33	15	24	22	36	13	18
Sergeant	133	82	234	217	289	70	151
Constable	46	46	32	52	67	59	24
Assistant Constable				1		1	
Total	262	149	303	306	411	154	204

(b) Stations	(c) Stations	(d) Stations
Orlando	Orlando	Orlando
Protea Glen	Protea Glen	Protea Glen
Jabulani	Jabulani	Jabulani
Meadowlands	Meadowlands	Meadowlands
Moroka	Moroka	Moroka
Brixton	Brixton	Brixton
Alexandra	Alexandra	Alexandra

Police Stations	(i)	(ii)	(iii)	(iv)	(v)	(vi)	(vii)
(i)	75	55	65	102	117	40	45
(ii)	167	88	132	176	247	89	139
(iii)	20	6	106	28	47	25	20

(1) (a) [Latest specified 12 months 1996-09-01 till 1997-09-03]

(2) (a) how many (i) murders (ii) rapes, (iii) hijackings and (iv) armed robberies were reported at each of these stations during the latest specified 12-month period for which information is available and (b) how many of these crimes have resulted in prosecutions in each case? N1824E

THE MINISTER FOR SAFETY AND SECURITY

(2) (a) how many (i) murders (ii) rapes, (iii) hijackings and (iv) armed robberies were reported at each of these stations during the latest specified 12-month period for which information is available and (b) how many of these crimes have resulted in prosecutions in each case? N1824E

(1) (a) [Latest specified 12 months 1996-09-01 till 1997-09-03]

Stations	(i)	(ii)	(iii)	(iv)	(v)*	(vi)	(vii)
Orlando	106	250	250	33	339	339	339
Protea-Glen	26	87	87	16	76	76	76
Jabulani	99	279	279	17	265	265	265
Meadowlands	154	312	312	29	235	235	235
Moroko	217	520	520	75	624	624	624
Brixton	12	51	51	5	101	101	101
Alexandra	215	319	319	114	517	517	517

- (1) Whether the South African Police Service is receiving funds from foreign donors, if not, what is the position in this regard, if so, what are the relevant details,
- (2) whether such funds are intended for specific projects, if so, (a) for which projects and (b) to what extent has such projects already been carried out? N1963E

The MINISTER FOR SAFETY AND SECURITY

- (1) Yes the South African Police Service does receive funds from foreign donors, most of the assistance received from foreign donors is in the form of technical assistance
- (2) Yes

(a) and (b) The assistance is given in the following areas

- Public Order Policing
 - Training in general Belgium Training in Self-Defence France
 - Border Control
 - Training in drug interdiction, (SAPS, Customs, and Home Affairs) USA
 - Community Policing
 - Booklets containing the policy guidelines have been printed Denmark
 - Coban training (temporary police stations such as caravans) Japan
 - Community Policing
 - Booklets containing the policy guidelines have been printed Denmark
- The Japanese Government has indicated that it will assist in the training of SAPS members in Coban training
- Victim Support
- Assistance in the development of a victim support curriculum, and training Netherlands

Two Dutch experts in victim support will soon be coming to South Africa to assist the South African Police Service in the evaluation of its victim support programme and to conduct subsequent training of SAPS members in victim support

Detective Service

- Assistance in the development of a curriculum for courses to be given at the Detective Academy (Pretoria) UK

- SANAB Organised Crime and Regional Border Interdiction Course USA Customs

- SANAB Train the Trainers (Development of Trainers) - Land/Border Interdiction

The two SANAB courses are currently underway and negotiations are in progress between the UK and the department, for assistance with the development of the curriculum for detective training

Equity

- Assistance in the training of equity management, development of strategies, and ways of implementation Sweden

A draft agreement between Sweden and the RSA has been drawn up in terms of which assistance will be given to, *inter alia*, assist with the programmes on equity management and the development of strategies

Management Training

- Training of Station Commissioners/Tran the trainer - Denmark

There are currently 12 Station Commissioners of police stations situated in historically disadvantaged communities attending a leadership and managerial course in Denmark

Police administration

- A general course in Police Administration Japan

Five members of the SAPS are currently in Japan for a two-week course in general Police Administration

MECs

- UK Policing advisers are attached to the MECs for Safety and Security of the Free State, Eastern Cape and Western Cape These advisers assist the MECs in developing the capacity of the Provincial Ministry and in its civilian oversight functions

- Western Cape - Nyanga - Peace and Development programme - R300 000 has been donated to train members of the community as peace workers, mostly in domestic disputes Members of the community will also receive similar training in Bavaria - Germany

- Gauteng Province - Sisterhood agreements with the Gauteng Provincial Government regarding research on gang-related violence and organised crime (Korea), crime prevention and training (Bavaria), community policing (Havana)

- Eastern Cape - Assistance has been given to the value of approximately R70 million over a period of two years, to assist the Eastern Cape in training, management, community policing, and the building of police stations UK and European Union

The Secretariat for Safety and Security

Sweden has in principle agreed to assist the Secretariat with approximately R500 000 in the finalisation of the White Paper

Transformation process of the SAPS

Belgium has given technical assistance and grants to the value of R20 million in assisting the transformation process in the SAPS

Assistance has also been given in areas such as Public Order Policing and Community Policing

Certain person: extradition

*12 Ms M SMUTS asked the Minister of Justice

(1) Whether the whereabouts of a certain person, whose name has been furnished to his Department for the purpose of his reply, has been established, if not, what steps are being taken to trace the said person, if so,

(2) whether the said person is to be extradited, if not, what is the position in this regard, if so, what are the relevant details? N1964E

The MINISTER OF JUSTICE

(1) and (2) Up to date the Department has not received any request for the extradition of the person referred to by the hon member

Financial affairs of TRC (252)

*13 Mr P A MATTHEE asked the Minister of Justice

(1) Whether he or his Department has taken or intends taking any steps following the Auditor-General's findings concerning the financial affairs of the Truth and Reconciliation Commission, if not, why not, if so, (a) what steps and (b) when,

(2) whether any action will be taken against (a) the executive head and/or (b) any (1) official and/or (1) commissioner of this Commission, if not, why not, if so, in what manner? N1965E

The MINISTER OF JUSTICE

(1) The Truth and Reconciliation Commission is governed by the Promotion of National Unity and Reconciliation Act, No 34 of 1995 Section 36 of the Act entrenches the independence of

the Commission The Commission independent and separate from any party, government, administration, or any other functional body directly or indirectly representing the interests of any such entity

The Department does not have any authority to take any steps following the Auditor-General's findings concerning the financial affairs of the Commission

However, the Director-General and the Chief Executive Officer of the Commission work in close co-operation with each other and constantly discuss matters relating to the Commission The Department of Justice is rendering every possible assistance required by the Commission to fulfill its functions in compliance with the prescripts applicable to the Commission

(2) In my view the Commission and the Chief Executive Officer of the commission render an outstanding service and, there is no reason for any action on my side Both the Department of Justice and the Chief Executive Officer endeavour that all prescripts are complied with

*14 Dr B L GELDENDHUYIS - Foreign Affairs †
[Question standing over]

Pharmacies monitored for counterfeit drugs

*15 Mr M F CASSIM asked the Minister of Health

(1) Whether her Department or any State agency consistently monitors pharmacies with a view to establishing whether such pharmacies keep counterfeit drugs in stock if not, why not if so, (a) how and (b) what are the further relevant details.

(2) whether she or her Department has ascertained that only authentic medicines are available from retail and government outlets, if not, why not, if so, what are the relevant details?
NI968E

The MINISTER OF HEALTH

(1) Routine inspections of pharmacies and other facilities where medicines are manufactured, kept or stored, are performed in terms of the

Handwritten signature

Pharmacy Act and the Medicines and Related Substances Control Act

Inspections by the Pharmacy Council are done independently of the Department of Health, utilising the Council's own inspectors

The Director-General Health, appoints inspectors in terms of the provisions of the Medicines and Related Substances Control Act, 1965 (Act 101 of 1965) for the enforcement of the Act

The purpose of the inspections is to ensure compliance with the requirements of the Medicines Control Act, the Foodstuffs, Cosmetics and Disinfectants Act and the Pharmacy Act

The Medicines Control Council also makes use of a firm of private investigators, whose personnel assist with particularly difficult inspections

Counterfeit medicines identified are seized and sent for analysis, and criminal charges laid against the suspects in terms of the Medicines Control Act

(2) The Medicines Control Act, prohibits the sale of unregistered medicines The Medicines Control Council evaluates each application for registration of a medicine for safety, efficacy and quality The inspectors, inspect all applicants, manufacturers, laboratories and wholesalers on a regular basis to assess compliance with current Good Manufacturing Practice (GMP), Good Laboratory Practice and Good Wholesaling or Distribution Practice

Random samples of medicines (final products and raw materials) are taken and tested at an independent laboratory for compliance with the specification for identity, assay and other parameters

Medicines available on the market may only be manufactured in accordance with the registration dossier, as approved by Council Regular compliance inspections, where this is verified, are performed by the inspectors

The combination of GMP inspections, compliance inspections and testing of samples result in assessment and assurance that only

authentic medicines should be available in the country

When any counterfeit medicine is identified, immediate action is taken to initiate a full investigation and withdrawal of the product from the market The World Health Organisation is further informed of the identified counterfeit products Once again, where a case can be made, criminal charges are laid

Petrol "routers"

*16 Mr M F CASSIM asked the Minister of Minerals and Energy

(1) Whether his Department had uncovered the existence of so-called "routers" who offer to supply petrol to recognised dealers at considerably lower cost than such dealers will be able to obtain petrol from recognised suppliers, if not,

(2) whether he or his Department will consider undertaking an investigation to establish whether such a practice exists, if not, why not, if so, what are the relevant details?
NI969E

The MINISTER OF MINERALS AND ENERGY

(1) No

(2) Yes The Service Station Rationalisation Plan which is a voluntary agreement between the Department of Minerals and Energy, the organised service station industry and the oil companies promotes the orderly and economic distribution of fuel and it addresses such practices Should the relevant information be made available an investigation could be considered

Maluti magisterial district: pensions

*17 Mr G O M DOIDGE asked the Minister for Welfare and Population Development

(1) Whether she or her Department took any steps to ensure that pensioners in the Maluti magisterial district of the Eastern Cape received their pensions after the Eastern Cape government stopped payment on all First National Bank cheques payable to pensioners in Maluti, if

not, why not, if so, what steps,

(2) whether, with reference to a certain press report, a copy of which has been furnished to her Department for the purpose of her reply, with the purport that cheques to the value of more than R1,5 million had been stolen from the Eastern Cape government, she or her Department has taken any steps to inform pensioners that these cheques had been stolen, if not, why not, if so, what steps,

(3) whether she will furnish an explanation in regard to the theft of the said cheques, if not, what is the position in this regard, if so, what are the relevant details,

(4) whether she or her Department intends taking any steps aimed at preventing a recurrence of such thefts, if not, why not, if so, what steps,

(5) what is the exact amount involved in the theft of these cheques?
NI970E

The MINISTER FOR WELFARE AND POPULATION DEVELOPMENT

(1) Yes, a total number of 25 cheques were stopped at the banks and cheques to the value of R940 were re-issued This amount includes the payment due to pensioners for a two month period, but excludes back pay These cheques have been re-issued, because of their geographical location These pensioners will receive their cheques during the September pay period.

(2) no, no incidences of stolen cheques have been reported in the Eastern Cape Province, however, the Department needs to obtain a more complete picture and is in the process for further investigation by the Department and to ensure whether a criminal case has been opened and by whom.

(3) no, only when more information is available

(4) yes, the Department is presently investigating the media report,

(5) nil

Handwritten: Howard

Mrs J Makhanya Sessional R 9 568 - 00

Official R 7 347 - 00

Overseas R 33 096 - 00

Miss Z Mthoa Sessional R 4 800 - 00

Official R 21 233 - 20

Mr N Cory Sessional R 5 038 - 00

Official R 7 341 - 22

Mr T Rubusha Sessional R 6 580 - 00

Official R 10 825 - 61

Ms C Reddy Sessional R 6 444 - 00

Official R 4 312 - 00

Mr A Maake Sessional R 5 892 - 00

Official R 2 434 - 61

Ms D Moroke Sessional R 3 358 - 00

Official R 5 794 - 61

Ms R Jacobs Sessional R 3 109 - 00

Official R 4 301 - 00

Overseas R 6 991 - 00

Ms B January Sessional R 3 496 - 00

Official R 2 355 - 20

Mr A Cook Sessional R 3 234 - 00

Official R 1 816 - 00

Mr M Gyoma Sessional R 3 496 - 00

Official R 10 778 - 00

(2) No

Satour: misappropriation of funds (288)

1124 Mr N J J VAN R KOORNHOF asked the Minister of Environmental Affairs and Tourism

(1) Whether any funds of Satour have been misappropriated, if so (a) what amount was and (b) which offices of Satour were involved,

(2) whether this matter has been investigated, if so, (a) when, (b) by whom, (c) who were the persons who were investigated, (d) when were these persons appointed and (e) what was the outcome of this investigation,

(3) whether any of the persons involved are South African citizens, if so, what are the relevant details,

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

THE MINISTER OF ENVIRONMENTAL AFFAIRS AND TOURISM

(1) Investigations are currently in progress as it is believed that funds of the South African Tourism Board (SATOUR) have been misappropriated

(a) As the investigation are currently in progress a final amount has not been determined

(b) At this stage, it appears that SATOUR's Paris office and possibly also Head Office may be involved

(2) The matter is currently being investigated

(a) With respect to SATOUR's Paris Office, investigations commenced in January 1996. Further investigations commenced in June 1997 into the Paris office as well as Head Office

(b) Initial investigations were conducted internally. Preliminary findings necessitated the involvement of South African Revenue Services, the South African Police Services and contracted investigative services

(c) In the case of SATOUR's Paris office, three persons were and two are being investigated. In the case of Head Office three persons are currently under investigation. Naming the persons may hamper and/or impede the investigations

(d) All persons being investigated were appointed prior to 1994

(e) Investigations are continuing

(3) Three of the five persons are South African citizens. With regard to the foreign nationals, SATOUR has briefed both Interpol as well as the French authorities. SATOUR would prefer not to reveal details of the

individuals being investigated as this may hamper and/or impede the investigations

(4) A statement on the matter will be made at the conclusion of the investigations

SA foreign missions

1137 Mr C W EGLIN asked the Minister of Foreign Affairs

(1) Whether South Africa currently represents or is considering representing any countries in other countries where they do not have foreign missions, if so, in each case, (a) which country does South Africa represent, (b) in which other countries is South Africa representing or considering representing such country, (c) why did South Africa agree to represent or is South Africa considering representing such country and (d) what resources are allocated by South Africa or is South Africa considering allocating towards representing such country,

(2) whether any costs are or will be recovered from the countries concerned, if not, what is the position in this regard, if so, what costs in each case? N1934E

THE MINISTER OF FOREIGN AFFAIRS

(1) (a) South Africa does not represent any country diplomatically

(b) South Africa is not considering representing any other country

(c) Falls away

(d) Falls away

(2) Falls away

Human rights violations investigations of complainants (252)

1138 Mr P A MATTHEE asked the Minister of Justice

(a) How many complaints of human rights violations were received by the Human Rights Commission during the period 1 January 1997 up to the latest specified date for which information is available, (b) in respect of how

many of these complainants have the investigations been concluded and (c) what is the average length of time between receipt of a complaint by the Commission and completion of the investigation of the complainant? N1935E

THE MINISTER OF JUSTICE

(a) According to the Chief Executive Officer of the Human Rights Commission, the Human Rights Commission received a total of 2 062 complaints between the period 1 January 1997 to 3 September 1997, made up as follows

(i) One thousand four hundred and thirty nine (1 439) complaints at its National Office in Johannesburg

(ii) Six hundred and twenty three (623) complaints at its satellite office in Cape Town

(b) According to the Chief Executive Officer of the Human Rights Commission complaints have been handled as follows

	Complaint to be processed	Current investigations	Completed investigations or closed files
National Office - Johannesburg	553 370 -receipt- ledged as yet	84	802 11 full investigations completed and files closed
Cape Town Office	193	52	378 7 full investigations completed 371 complainants referred or rejected after assessment
Total	746	136	1 180

(c) According to the Chief Executive Officer of the Human Rights Commission it is not possible to state with any measure of accuracy

the average length of time between the receipt of a complaint by the Commission and completion of the investigation of complaints, as a result of the varying nature of complaints received and the varying nature of investigations or action taken in respect of respective complainants. However, on average, investigation of a complaint is completed within five months.

Remark
According to the Chief Executive Officer of the Human Rights Commission, the complainants handling function of the Commission should be assessed against the following background

* There are only two professional staff members in Johannesburg and one professional staff member in Cape Town to handle the case load

* Sponsorship for the installation of appropriate information technology systems, including a complaints handling system, has recently been approved. The installation should be completed in the next three months. In the absence of adequate systems and human resources, the handling of complaints and the furnishing of statistics, amongst others, are extremely onerous tasks

QUESTIONS

Indicates translated version

For written reply

Draft labour equality bill

992 Mr C M GEORGE asked the Minister of Labour †

Whether a commission or committee has been appointed with the instruction to draw up a draft labour equality bill, if so, what are the (a) names and (b) qualifications of the members of this commission or committee? NI699E

THE MINISTER OF LABOUR

On 11 March 1997, the State Attorney's Office, at the Department of Labour's request appointed three lawyers to serve on the Drafting Team for the Employment Equity Bill. He appointed them on the instructions of the Department of Labour. The three lawyers are

- 1 Ms Amanda Armstrong of the law firm Cheadle, Thompson & Haysom,
- 2 Ms Urmila Bhoola also of the law firm Cheadle, Thompson & Haysom,
- 3 Mr Sipho Madhlopa of the law firm Madhlopa Attorneys

(a)

Cell phone	Jul 96	Aug 96	Sep 96	Oct 96	Nov 96	Dec 96	Jan 97	Feb 97	Mar 97	Apr 97	May 97	Jun 97
1	547 69	164 94	1 104 98	164 94	164 94	164 94	164 94	222 57	193 21	266 30	636 70	922 99
2	488 36	895 50	406 62	636 80	407 72	412 57	727 14	431 76	457 64	729 83	835 26	360 42
3	-	-	559 61	353 04	344 61	340 79	537 82	331 04	329 90	232 28	593 08	550 83
4	518 57	1 029 71	998 33	1 029 71	960 37	468 70	505 35	524 42	404 63	367 41	838 53	442 02
5	265 27	241 21	228 39	234 99	200 05	195 55	228 73	185 64	229 41	206 11	482 23	239 35
6	296 89	452 73	733 85	588 79	575 11	558 30	397 78	317 37	656 34	699 57	1 042 98	559 29
7	-	-	-	-	-	-	109 06	336 25	297 54	316 69	408 00	273 38
8	274 10	693 75	343 37	377 17	498 75	225 90	183 14	-	-	-	-	-
9	1 024 52	1 357 27	1 684 05	1 777 30	883 54	391 92	685 32	351 16	533 39	677 49	265 23	239 23
10	153 90	384 43	816 90	678 44	656 58	569 73	820 14	797 04	729 80	932 79	821 85	832 33
11	712 60	1 271 43	1 266 31	1 444 30	729 46	676 79	1 006 44	710 10	932 79	995 46	671 72	993 28
12	-	-	-	-	1 617 72	688 76	821 38	153 90	605 57	953 27	1 140 34	837 96
13	-	228 00	975 90	706 02	828 00	659 32	392 70	899 18	554 89	91 20	702 23	-
14	-	228 00	665 02	539 18	710 09	379 05	555 06	542 18	519 44	474 46	190 60	297 43
15	-	-	-	249 11	485 40	912 32	962 22	1 193 64	1 343 83	817 95	1 169 13	1 792 25

All are qualified attorneys at law. They have worked with Messrs Mzi Yawa, Loyiso Mbabane and Jeremy Baskin from the Department in drafting the Bill

Department: cellular telephone bills

1032 Mr A J LEON asked the Minister of Labour

(a) What was the cellular telephone bill of each employee of his Department in possession of an official cellular phone in each month during the latest specified 12-month period for which information is available and (b) what controls are in place to prevent the abuse of such cellular phones? NI743E

THE MINISTER OF LABOUR

(a) See attached schedule

(b) A policy on the utilisation of cellular telephones has been adopted according to which a monthly financial limit is placed on the usage of cellular telephones. The current financial limit on expenditure on all calls is R200 per month per official cellular telephone. In the event where the financial limit is exceeded, the user will be required to identify and pay for all private calls made. If no response is received from the user within 30 days after receipt of a copy of the account, the amount exceeding the financial limit will be deducted from the user's salary. No calls on cellular phones to foreign countries are allowed.

Hannard

repair of the holiday house Lekkerwater on or before April 1990, if not, why not, if so, what are the relevant details? N1590E

THE MINISTER OF FINANCE

No The former Cape Provincial Administration was approached to accept the gift for the upgrading and repair of the holiday house The Executive Council of the Province approved the upgrading and repair of the house on 10 April 1990 and it was consequently not referred to the Treasury (then part of the Department of Finance) for approval

Amnesty: cut-off date (252)

*29 Mr C J van R BOTHA asked the Minister of Justice

- (1) Whether he intends introducing legislation to change the cut-off date in respect of the granting of amnesty, if not, why not, if so, when,
- (2) whether any delay has been experienced in this regard, if so, why,
- (3) whether such delay has led to the postponement of two amnesty hearings and/or a growing backlog in the work of the Truth and Reconciliation Commission, if not, what is the position in this regard, if so, what are the relevant details,
- (4) whether he will make a statement on the matter? N1591E

THE MINISTER OF JUSTICE

- (1) A Constitutional Amendment Bill to make provision for the extension of the cut-off date in respect of the granting of amnesty has been introduced in Parliament by the Minister for Provincial Affairs and Constitutional Development
- (2) No Once the Bill was approved by Cabinet all efforts were made to comply with time periods required by the Constitution
- (3) According to the Chief Executive Officer of the Truth and Reconciliation mission it is not clear as to which specific amnesty hearings the honourable member is referring to Amnesty hearings have been postponed for a variety of

Hannard

reasons However, even in cases where amnesty matters do not fall within the previous cut-off date, the TRC can still receive evidence on it and the Amnesty Committee will postpone making a decision on the matter until the Constitutional Amendment is effected In any event, in view of the large number of amnesty applications which have been received, there is sufficient work for the Amnesty Committee to continue with pending the Constitutional Amendment

(4) A statement is not necessary

SANDEF: trade union

*30 Mr J A MARAIS asked the Minister of Defence

- (1) Whether he has lent his support to the legalisation of a trade union for members of the South African National Defence Force, if not, what is the position in this regard, if so, why,
- (2) whether he will make a statement on the matter? N1592E

THE MINISTER OF DEFENCE

- (1) No I have not lent my support to the legalisation of a trade union for uniformed members of the SANDF
In the White Paper, approved by Parliament in May 1996, the Government's position regarding labour relations arrangements for the military are clearly spelt out in Chapter 5
Investigations are already advanced regarding the creation of suitable empowering mechanisms to expand the means by which the needs of uniformed members can be addressed
- (2) The State acknowledges its obligation to protect and further the interest of the uniformed members of the SANDF, who by regulation, are prevented from organising themselves collectively for reasons of bargaining with the State
As I have already said, investigations are well advanced regarding the development of a mechanism for the uniformed member

The new Defence Act will definitely address this issue and as with all draft legislation, it will be discussed in detail in consultation with the Joint Standing Committee on Defence and all other interested parties

Basic Conditions of Employment Act: impact

*31 Comdt A BLAAS asked the Minister of Labour

Whether his Department has done research into and/or made international comparisons regarding the impact that the proposed Basic Conditions of Employment Act will have on the Republic's ability to create more jobs, if not, why not, if so, what are the relevant details? N1593E

THE MINISTER OF LABOUR

Yes, the Department has done research and made an international comparison on the impact of basic conditions of employment on the ability of the country to create jobs

A research paper, focusing on the impact of hours of work on employment creation, was commissioned to feed into the draft Green Paper on Policy Proposals for a New Employment Standards Statute which was published in February 1996 Further, Departmental officials and the drafters of the proposed Bill have visited the International Labour Organisation and held discussions with international experts

It is widely acknowledged that the international community (governments and academics alike) are divided on this issue As the World Employment Report 1996/7 states

"[T]here is] considerable disagreement about the impact of labour market institutions and policies on economic development and employment creation in developing countries" The Report goes on to summarise the two divergent views

The first view argues that labour market regulations "distort" otherwise perfectly functioning competitive markets The second view stresses that labour market institutions and policies help to reduce poverty, improve productivity and foster economic growth, thus enhancing social welfare in developing countries

The report also quotes a recent econometric study which shows that measures of severance pay, maternity leave and paid annual leave do not have any significant effect on the growth rates of either total employment or output in Latin America or the Caribbean

In respect of the impact of a reduction in the hours of work on job creation, the Department looked extensively at the international literature on the subject and came to the conclusion that reducing hours of work had a minimal or no impact on job creation However the research showed that a greater positive effect could possibly be achieved where a concerted policy of job creation accompanies a reduction in working time

This is one of the reasons why the Department is arguing for a multi-faceted approach to the creation of jobs A single legislative measure on its own can't have an impact, negatively or positively, on the creation of jobs The details of such an approach will be released shortly in our Employment Strategy document as part of the process leading up to the Jobs Summit

Road deaths: impact of advertisement

*32 Mr J S A MAVUSO asked the Minister of Transport

- (1) Whether his Department's attention has been drawn to an advertisement which appeared in the federal state of Victoria in Australia and which had a significant effect on the number of road deaths in Australia, if so, what are the relevant details,
- (2) whether, with reference to press reports which appeared on or about 25 June 1997, the Australian authorities presented a video of this advertisement to his Department to be used free of charge on South African television, if so, when,
- (3) whether he or she or his Department has decided to use this video, if not, (a) why not and (b) who took this decision,
- (4) whether he will make a statement on the matter? N1594E

retirement fund in terms of the Management of State Forests Act, 1992 (Act 128 of 1992) has not yet been completed and the actuarial evaluation of the company's retirement fund not yet completely determined it is unknown whether or not the pension fund has any shortfalls

Transnet Limited

The shortfall in the Transnet pension fund is as follows

1992/93	R6 494,4 million
1993/94	R4 691 million
1994/95	R4 208,9 million
1995/96	R3 247,6 million
1996/97	Not available

(2) (a) and (b) Alexkor Limited

The Government did not contribute towards any deficit of the Alexkor group pension fund.

Aventura Limited

No

Denel (Pty) Ltd

No

Eskom

No

Safcol Limited

No

Transnet Limited

No

(3) *Alexkor Limited*

Alexkor contributed additional funds to ensure that the fund is fully paid up

Aventura Limited

No

Denel (Pty) Ltd

No

Eskom

No

Safcol Limited

Yes, in terms of the Management of State Forest Act, the State shall make good any deficit on the pension interests being transferred. This matter is at present receiving attention in consultation with the Department of State Expenditure

Transnet Limited

Yes, at Company formation on 1 April 1990, the deficit of the Pension Fund amounted to R17 180 million. Since that time the following measures were introduced

- Transnet issued Bonds to the value of R10 394 million to settle a portion of the deficit
- Transnet's contribution rate was increased from 11% to 15,525%

The Rules of the Fund were amended to make provision for the Fund to invest in growth assets, for example shares and property, compared to exclusively Bonds in the past

Strict control and management regarding permanent ill health procedures were introduced

Antedating of pensionable service was cancelled

Widow benefits were reduced by 10% from 80% to 70% of spouse's pension

Pensionable emoluments were reduced from final salary to an average of the last 12 months preceding retirement

A moratorium of 5 years was placed on ad hoc increases for first time pensioners since Company formation. Such pensioners only receive the 2% statutory increase. The moratorium has since been reduced to 3 years.

Neumbe Location application for electricity

900 Mr G Q M DOIDGE asked the Minister for Public Enterprises

(1) Whether Eskom has received an application from community members of the

Neumbe Location in Region E, also known as EG KEI Region, falling under the jurisdiction of (a) Mount Ayliff and/or (b) Tabankulu in the Eastern Cape, for electricity to be supplied to the said location, if so, what are the relevant details, if not,

(2) whether she, her Department or Eskom intends taking steps to have electricity supplied to the said location, if not, what is the position in this regard, if so, what are the envisaged time-frames in this regard,

(3) whether her Department or Eskom has any plans to supply electricity to the area referred to as Western Tabankulu, if not, what is the position in this regard, if so, (a) when will such electricity be supplied and (b) what are the further relevant details?

N1550E

THE MINISTER FOR PUBLIC ENTERPRISES

(1) (a) and (b) No

(2) The Neumbe location is dependent on the planned grid expansion in the former Transkei region, which is requiring a huge network for bulk electricity supply. The main source of supply for this area will be by the Mount Frere Substation (phase 1) which is scheduled for completion in May 1998

(3) The Mount Frere substation will also cater for Kupapana and Mngicpongweni in 1998 as well as Siphethu in 1999, which form part of Western Tabankulu. Due to the massive grid expansion required in the former Transkei region, the electrification of the villages further down in Western Tabankulu is not yet planned. Most of the capital budgeted for in respect of the Eastern Cape region for 1998 and 1999 will be spent on grid expansion before Eskom can electrify a significant number of villages in this region.

Applications for amnesty

905 Mr J W MAREE asked the Minister of Justice

(1) (a) How many persons had already applied for amnesty up to the latest

specified date for which information is available, (b) how many such persons have received amnesty and (c) how many of these applications were turned down,

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

N1555E

THE MINISTER OF JUSTICE

I am informed that according to the database of the Amnesty Committee, the information is as follows

(1) (a) On 22 August 1997 a total of 6 944 amnesty applications have been registered

(b) (i) Amnesty granted at hearings 50
(ii) Amnesty granted in chambers 23

(c) (i) Amnesty refused at hearings 17
(ii) Amnesty refused in chambers 43

(iii) Amnesty refused by Amnesty Committee because -

* applicant denied guilt 60
* act was for personal gain 221

* act not associated with political motive 1 237
* act falls outside cut off date for amnesty 130

(2) A statement is not necessary

Minister present/absent

1076 Mr C W EGLIN to ask the Minister for Provincial Affairs and Constitutional Development

Whether he was present at parliament on each sitting day during the first six months of 1997, if not, (a) on how many days was he absent from Parliament, (b) on how many of these days was he absent (i) on State business, (ii) on leave and (iii) on grounds of ill-health and (c) on how many of the days on which he was absent on State business, was he in (i) Cape Town or (ii) any other specified city?

THE MINISTER FOR PROVINCIAL AFFAIRS AND CONSTITUTIONAL DEVELOPMENT

No

(a) 11

(b)(i) 11

(ii) 0

Technology, Engineering and Economic Development, and becoming part of the education of every learner in South Africa by the year 2005. The ideal is to nurture creative, adaptable, critical, autonomous, entrepreneurial and employable citizens who can contribute meaningfully and responsibly to their own communities and the South African environment, economy and society. Implementation is to be piloted in 20 schools in each province.

SYSTEM is an initiative designed to break the ongoing cycle of mediocrity which characterises much of Science and Mathematics teaching in South Africa at the moment. It seeks to recover large numbers of Senior Certificate candidates whose performance in these subjects has been below par. They will undertake a full year of study leading to the awarding of a certificate equivalent to the Senior Certificate. A proportion of SYSTEM completers will then enter for a new diploma programme in Science or Mathematics teacher education, thereby ensuring that the weakness in school Science and Mathematics is addressed. It should be seen as a value-added programme which will comprise Physics, Chemistry, Mathematics, Technology, Communications and Life and Earth Sciences.

- Earlier this year, the Department released its Technology Enhanced Learning Investigation, which maps out a five-year implementation plan for the use of technology as a learning tool. An Institute for Education Technology is being set up as part of a National Institute for Lifelong Learning.
- The Department has embarked on a major and innovative Curriculum development programme, Curriculum 2005, which will be implemented in grades 1 in 1998 and will be phased in on an on-going basis in the following years. The Department places an extremely high premium on providing successive cohorts of competent and skilled students to face the economic and social challenges of the new century and the issue of Mathematics, Science and Technology is being addressed in this new curriculum initiative.

- addressing the mismatch between South African and international curricula, and at the same time making them relevant to the world of work. This process has already commenced as the Curriculum 2005 Initiative in co-operation with the Technical and Reference Committees have worked full time since 17 February 1997.

- investigating the use of innovative methods and classroom approaches. This topic has been addressed by the Department of Education in a pamphlet intended for in-service teacher education *Outcomes Based Education in South Africa - Background information for educators (Second Draft)*, and

- presenting in-service education programmes at all levels which will commence in March 1998

- promoting Mathematics, Science and Technology education among girls. Research has already been undertaken and recommendations have been made to the Gender Equity Task Team of the Department of Education

- supporting and co-operating closely with the Department Arts, Culture Science and Technology (DACST) to promote Science and Technology, especially to make 1998 the Year of Science

(b) The measure of success will only partly be determined by the end of the year once the SYSTEM candidates have completed the Senior Secondary Certificate examinations. Other evaluations, such as teams visiting the provinces to evaluate and monitor the Curriculum 2005 project schools will be conducted throughout the next years.

Legal Aid Board: recommendations by consultants accepted/rejected (25/2)

*14 Mr M F CASSIM asked the Minister of Justice

(1) Whether the Legal Aid Board has been implementing the recommendations made by and following advice given to it by consultants commissioned to ensure high efficiency, if so, to what extent, if not,

(2) whether he or his Department has enquired from the said consultants why their recommendations were not implemented or their advice was not followed, if not, why not, if so, what are the relevant details,

(3) whether he or his Department has taken or intends taking any steps to ensure that public funds are optimally utilised in this regard, if not, why not, if so, what steps?

N1772E

THE MINISTER OF JUSTICE

(1) The Legal Aid Board contracted with two firms of consultants, acting in association with each other, to (broadly speaking) investigate and then to make and implement suggestions relating to the improvement of its book and financial record keeping, operational and management procedures. Although there was a close liaison between the two firms, the one concentrated mainly on the book and financial record keeping and the other mainly on the operational and management aspects. Some of the most important work which the latter firm had to do included the investigation and implementation of the following

- formulating a so-called business plan in which, *inter alia*, the vision and mission of the Board was to be detailed,

- designing work processes and procedures, especially in critical areas such as the acceleration of payments of lawyers' accounts,

- designing and implementing control systems for such new work processes, which were regarded as being of primary importance,

- identifying the personnel requirements of the Board in the light of the new work procedures, and

- formulating and motivating a request for

additional posts for submission to me in terms of section 8 of the Legal Aid Act, 1969 (Act 22 of 1969)

In addition it was agreed that the consultants would assume the responsibility of eliminating the backlog in the payment of lawyers' accounts

The firm dealing with the book and financial record keeping rendered satisfactory services. Its advice was accepted and its suggestions implemented. The Board was, however, not satisfied with the work done by the other firm. According to the Board that firm had after a period of 14 months,

- not yet completed a business plan determining the work procedures which had to be designed, and implemented no control mechanisms,

- failed to finalise the request for additional posts, and

- failed in its attempts to eliminate the backlog in the payment of lawyers' accounts

It is the Board's attitude that the latter consultants failed to carry out its contractual obligations in several respects and that it furnished no practical suggestions of value.

Payment of the contract price, which was being made in instalments, was stopped during October 1996 because the Board had become apprehensive at the lack of progress and the firm concerned was informed of the Board's attitude.

(2) The Department of Justice is not involved in the dispute between the Board and the consultants concerned and has not directed enquires to the firm concerning the reasons for the dispute between the parties.

(3) Because of the Board's concern for the optimal appropriation of public funds attempts are presently being made by the Board to resolve the dispute between the Board and the consultants. Negotiations have commenced and are being dealt with by the attorneys of both sides.

Public Sector - Government - Justice

1997

OCTOBER

Cash bound for ANC 'diverted' on orders of PW, TRC told

Star 1/10/97

Overseas donations 'laundered'

OWN CORRESPONDENT AND SAPA
Port Elizabeth

Former president P W Botha is alleged to have personally ordered money destined for the African National Congress and "leftist" organisations from overseas to be intercepted and channelled into state coffers.

One of the nine former security policemen applying for amnesty for the 1989 Motherwell car-bomb murders told the Truth Commission this is what he heard while in Port Elizabeth to take part in the operation.

Marthinus Ras, a warrant officer from Vlakplaas at the time, states in his amnesty application that during a briefing before the operation by his then commander, Eugene de Kock, he was told that two of the security policemen to be killed had been involved in stealing money intercepted from overseas sources.

This was not the first time he had heard of such interceptions, and he had previously been in conversations when it had been mentioned that spy Craig Williamson had channelled funds from the ANC to police.

While in Port Elizabeth for the Motherwell operation, he and his Vlakplaas colleagues had been invited to a banquet at the home of police agent Carl Edwards, who had discussed their planned action.

Carl Edwards men-

tioned that operations to intercept money from the ANC and leftist organisations and to channel this back to the state were on the direct instructions of P W Botha.

"If the (suspect security police) members were to walk over to the ANC and if such instructions (Botha's) and operations were revealed to the ANC, it would have caused great embarrassment to the security police and the government."

Because of the large amounts of money entering the country illegally in support of the ANC and other organisations, stealing it and "laundering" it through false accounts was the only way to counter and foil such donors, Ras said.

Meanwhile, two of the country's most notorious apartheid-era assassins, former police hit-squad commander Eugene de Kock and Port Elizabeth security policeman Gideon Nieuwoudt, are pitted against each other in their bids for amnesty for killing four in the 1989 Motherwell car-bombing.

De Kock was expected to contradict portions of Nieuwoudt's testimony when he begins testifying in Port Elizabeth today.

De Kock's lawyer Schalk Hugo has challenged Nieuwoudt, saying his client would dispute the policeman's recollection of the events leading up to the bombing.

More than 70 applicants beat midnight deadline

(252) Jan 1/10/97

Cape Town — The Truth and Reconciliation Commission received more than 70 last-minute amnesty applications yesterday, before the midnight deadline for perpetrators of apartheid-era crimes.

Commission spokeswoman Christelle Terreblanche said soon after midnight that 73 applications had arrived at the TRC's head office in Cape Town and at other offices during the day.

Thirty-four applications were in the Cape, 26 in Gauteng, nine in Kwazulu Natal and four in East London.

Although she would not disclose names of applicants, they included 14 Inkatha Freedom Party members, 13 ANC members, six Pan Africanist Congress members and one each from the Azaman People's Organisation and the Afrikaner Weerstandsbeweging.

AWB leader Eugene Terreblanche indicated earlier this week he intended to apply for amnesty for his role in the violent break-up of a National Party meeting in Ventersdorp, and the tarring and feathering of a Pretoria academic.

Yesterday 25 applications were submitted by past or present policemen and two former members of the Civil Co-operation Bureau, Terreblanche said.

This brings the total of amnesty applications received during the month-long "special window period" to 99.

Commission offices throughout the country remained open until midnight to receive applications. Most applications were by fax, although some were delivered by hand.

Earlier yesterday, commission vice-chairman Dr Alex Boraine

warned at a media briefing this was the absolutely final opportunity for amnesty applications.

ERC chairman Archbishop Desmond Tutu made an impassioned appeal to white people to help shut the door on South Africa's "horrendous past".

None of the victims of apartheid-era abuse, he knew well were looking for revenge, even though they had been deeply hurt, he said.

Communities which had been resisting involvement with the TRC should take advantage of the procedure it offered.

"Can you white South Africans hope for anything more generous? I'm appealing to all of those who often try to ridicule us, who try to say we are not even-handed.

"Oh God, please just give us the eloquence that will enable these people to hear that we care so deeply for this country and care for them.

"And all we ask from them is an acknowledgment that these things were done and they happened, and that they're accountable, and that they're sorry. And that'll be the end. Please." He said the commission had no intention of pillorying or ridiculing anyone.

"The purpose of finding out the truth is not for people to be prosecuted, not to make them laughing stocks. It is so we can use the truth as part of the process of healing our nation."

Tutu confirmed that his son Trevor, jailed for making a bomb threat at East London airport, was among the amnesty applicants.

More than 7000 people have filed amnesty applications with the commission. — Sapa

P W Botha subpoenaed to attend TRC hearing

Star 1/10/97 (252)

Former state president says he is unable to testify because of complications following hip surgery

By Robert Brand

The Truth and Reconciliation Commission hopes to lay bare the inner workings of the State Security Council, the body created by former state president P W Botha to suppress opposition to his government.

Botha and several members of his cabinet have been subpoenaed to appear at a special hearing to be held in Johannesburg from October 14 to 16. The hearing will be held against the backdrop of recent testimony by former police generals that the National Party government condoned the murder of activists during the 1980s.

Botha indicated through his lawyers he would not be able to attend the hearing for medical reasons, but the commission said yesterday it would not withdraw the subpoena and would make arrangements for Botha to testify despite his illness.

The commission has previously refused calls to subpoena Botha, attempting rather to obtain his voluntary co-operation. But yesterday there were signs it was running out of patience.

TRC chairman Archbishop Desmond Tutu said Botha's lawyers told the commission this week they had dealt with only half the questions the TRC had submitted to Botha in February, and that they would not

be able to meet the TRC's September 30 deadline.

Tutu said this was a "totally unsatisfactory situation", given the pressure on the TRC to produce its final report by July next year. As a compromise it had been arranged that the lawyers would feed the commission with replies as they were completed.

Botha recently had hip replacement surgery, and Tutu said yesterday there had apparently been post-operative com-

We have requested a full medical report

plications. "We indicated we would not withdraw the subpoena but requested a medical certificate and a full medical report. We are exploring an alternative date for his appearance."

Asked if the commission might travel to the Cape, where Botha lives, Tutu said they would be looking at "the best possible way of doing this, given his medical condition".

General Magnus Malan, former minister of defence, and

Adriaan Vlok, former minister of law and order, have also been subpoenaed, as has General Pierre van der Westhuizen, a former secretary of the State Security Council.

Former cabinet ministers Pik Botha, Roelf Meyer and Leon Wessels have been subpoenaed, although the commission said the subpoenas were a formality because they had agreed to testify voluntarily.

Subpoenas have also been served on a number of top officers of the former SADF and members of the armed wings of liberation movements to testify at a special armed-forces hearing in Cape Town next week.

Among those subpoenaed are three generals and an admiral of the former SADF, including two chiefs of the SADF; six officers of the former SAP, including two commissioners; four former MK commanders, and five former Apla leaders.

General Georg Meiring, current head of the SANDF, will respond to questions sent to him since his appearance before the commission last year.

Notices have been served on 25 former military and political figures from the former government and ANC forces indicating they will be negatively implicated during the hearings.

► More reports

Bomber 'was under orders' (252)

ET 1/10/97
ROGER FRIEDMAN
AND BENNY GOOL

PORT ELIZABETH: Convicted Motherwell bomber Gideon Niewoudt, who declined to testify in his defence during his High Court trial last year, has broken his silence and claims he took part in the bombing under orders.

He told an amnesty committee hearing here that he had been instructed in 1989 by his then-divisional commander, Brigadier Fanie Gilbert, to blow up three security police colleagues and an informer.

At the time of the bombing, Niewoudt was regional commander of the security branch's intelligence unit here.

He said yesterday that when he told Gilbert of his suspicions that several black colleagues were working for the ANC, Gilbert's spontaneous reaction was that the members should be transferred. Niewoudt said he did not think this would solve the problem.

He had told Gilbert that if the members divulged information to the ANC, there would be "catastrophic" ramifications for the security police.

After his meeting with Gilbert, the members were monitored. Niewoudt said his suspicions had been confirmed when sources told him Warrant Officer Glen Mgoduka and informer Mr Charles Jack were also answering to uMkhonto weSizwe's Eastern Cape commander, Mr Roji Skenjana.

It was later established that Mgoduka was Roji's "principal agent" and was overseeing his colleagues, Sergeant Amos Faku and Sergeant Desmond Mapipa, who were "sub-agents".

On December 12, 1989, Gilbert told Niewoudt he had been given the go-ahead by headquarters in Pretoria for the "covert operation" eliminating the four men.

FORMER CABINET MEMBERS SUBPOENAED

TRC to quiz PW over Security Council

(252)
CT 1/10/97

JOHANNESBURG: Special arrangements may have to be made for P W Botha to testify despite claims by his lawyers that he is too ill to appear

THE Truth and Reconciliation Commission hopes to lay bare the inner workings of the State Security Council (SSC), the all-embracing body created by former state president Mr P W Botha to suppress opposition to his government

Botha and several members of his cabinet have been subpoenaed to appear at a special hearing in Johannesburg from October 14 to 16. The hearing will be held against the backdrop of recent testimony by former police generals that the National Party government condoned the murder of activists during the 1980s

Botha has indicated through his lawyers that he will not be able to attend the hearing for medical reasons, but the commission said yesterday it would not withdraw the subpoena and it would make arrangements for Botha to testify despite his illness

The commission has previously refused calls to subpoena Botha, attempting instead to obtain his voluntary co-operation. But yesterday, there were signs that it was running out of patience

TRC chairman Archbishop Desmond Tutu said Botha's lawyers told the commission this week they had dealt with only half of the questions that the TRC submitted to the former president in

February this year, and that they had not been able to meet the TRC's September 30 deadline

Tutu said this was a "totally unsatisfactory situation" given the pressure on the commission to produce its final report by July next year. As a compromise it had been arranged that the lawyers would feed the commission with replies piecemeal, as they were completed

Botha recently had hip replacement surgery, and Tutu said there had apparently been post-operative complications

"We indicated we would not withdraw the subpoena but requested a medical certificate — which has been supplied — and a full medical

report, and we are exploring an alternative date for his appearance," Tutu said in a statement

Asked if the commission might travel to the southern Cape, where Botha lives, Tutu said they would be looking at "the best possible way of doing this given his medical condition"

General Magnus Malan, former Minister of Defence, and Mr Adriaan Vlok, former Minister of Law and Order, have also been subpoenaed to the State Security Council hearing, as has General Pierre van der Westhuizen, a former secretary of the SSC

Former cabinet ministers Mr Pik Botha, Mr Roelf Meyer and Mr

Leon Wessels have also been subpoenaed, although the commission said the subpoenas were a "formality" because they had agreed to testify voluntarily

Subpoenas have also been served on a number of top officers of the former SADF and members of the armed wings of liberation movements to testify at a special armed forces hearing in Cape Town next week

Among those subpoenaed are three generals and an admiral of the former SADF, including two chiefs of the SADF; six officers of the former South African Police, including two former commissioners, four former MK-commanders; and five former Apla leaders

General Georg Meiring, current head of the SANDF, will also give evidence and respond to questions sent to him since his last appearance before the commission last year

In addition to the subpoenas, notices have been served on 25 former military and political figures from former government and ANC forces indicating that they will be implicated during the hearings in a manner which may be to their detriment

Tutu appealed to white South Africans to put aside their suspicions about the commission

"There is no intention on the part of the commission to pillory anybody . . . to ridicule anybody. The intention is to get to the bottom of as many matters as possible," he said on the eve of a deadline for amnesty applications

"God, please give us the eloquence that will enable these people to see that we care so deeply for this country, and we care for them," Tutu said — Own Correspondent



Terre'Blanche seeks amnesty for three events

JOHANNESBURG: Right-wing leader Eugene Terre'Blanche had applied for amnesty for two alleged acts of political thuggery by his supporters, a radio station reported last night

It said Terre'Blanche's lawyers had faxed his application to the Truth and Reconciliation Commission hours before the deadline at midnight.

Truth Commission officials said six applications for amnesty had been

received yesterday. These included one from the Afrikaner Weerstandsbeweging (AWB), but officials declined to say if it was from Terre'Blanche.

Terre'Blanche told the radio station he would seek pardon for three incidents: the tarring and feathering of a University of Pretoria professor, the "Battle of Ventersdorp", which erupted during then-president Mr F

W de Klerk's visit in 1991 and in which three people died, and the illegal possession of firearms, allegedly hoarded by AWB members before the 1994 elections.

Terre'Blanche, 52, was not charged for the first two incidents, but a number of his supporters were fined for public violence.

He was not available for comment last night — Reuter

CT 11/10/97 (252)



before the Truth and Reconciliation Commission in Port Elizabeth today on his role in the killing of
 known as the Motherwell Bombing

PICTURE: BENNY GOOL

3331
 573
 291
 65

Freq.

maste

e 61

A small measure of retribution

ss South Africans They fought democra-
 and lost

They are brought forth to disclose their
 crimes to the world in exchange for am-
 nesty, ensconced in armoured vehicles,
 surrounded by police guards with rifles,
 hissed at and jeered They have blood on
 their hands, and must slip through the
 back door into the New Brighton Cente-
 nary Hall

The bespectacled, manacled, Eugene de
 Kock — in jail for the rest of his life for a

macabre combination of grisly and "white-
 collar" crimes — became a symbol for
 apartheid security force evil during his
 widely publicised trial

Red-faced Gideon Niewoudt — who
 has also been convicted of murder for his
 role in the so-called Motherwell Bombings
 — could be regarded as the De Kock of the
 Eastern Cape

Indeed, Niewoudt might even deserve
 more notoriety than the man dubbed
 Prime Evil, if only because the killings he

admits having been involved in were
 among the most high-profile of their time

He is applying for amnesty in connec-
 tion with the murders of Siphwo Mtshu-
 ku, Topsy Madaka, Steve Biko, Matthew
 Goniwe, Fort Calata, Sicelo Mhlauli, Spar-
 row Mkonto

Their appearance together before the
 commission's amnesty committee in rela-
 tion to the Motherwell Bombing fills the
 Centenary Hall to capacity

Turn to Page 5

P. T.O.

(252)

ET 11/10/97

NEWS

PRIME EYES: Eugene de Kock is expected to testify for the first time about three black security policemen and an informer in what came to be known as the 'Cape Town 11' case.

TRC offer

ROGER FRIEDMAN

PORT ELIZABETH The Truth and Reconciliation Commission was clearly not designed with retribution in mind, nor is it a forum for justice. But the way two of the apartheid regime's most effective killing machines are being made to scurry about here, like a pair of heavily guarded sewer rats, brings a little of both to mind. Their very names inspire fear and loathing in the hearts and minds of count-

NEWS



THE CHANGING GUARD: Feared apartheid killer Gideon Niewoudt is led into a police van surrounded by armed guards. Niewoudt told an amnesty hearing he believed "the only chance for the survival of whites was to neutralise and control black nationalism"

PICTURE: BENNY GOOL

Killers' treatment offers measure of retribution

(292)

CT 11/10/97

□ From Page 1

A sea of black faces squirming in plastic seats straining to hear Niewoudt's subdued responses in defence of his actions to defend the National Party government, and his occasional smirk. Twittering at responses deemed to be untruthful. Craning necks to catch a glimpse of De Kock, sitting on the stage in his prison greens behind the grey-suited Niewoudt and a row of lawyers

There are nine former security policemen applying for amnesty for their roles in the Motherwell Bombing, but these two are without doubt the star attractions

There are more policemen with firearms in the hall than have been present at any of the commission's proceedings attended by this reporter

There was spice and drama in their respective verbal inputs, too. De Kock and Niewoudt could lay claim to being the apartheid security-force operatives who have the least to lose by telling the truth. How many other operatives have ever been convicted, as they have? Yet yesterday's proceedings introduced the intriguing prospect of a disagreement in their versions of the truth

De Kock's lawyer, Mr Schalk Hugo, challenged Niewoudt's testi-

mony that the Motherwell Four were "eliminated" to protect the intelligence network and National Party government

Hugo said De Kock would testify that he was told by Niewoudt before the killing that the four were suspected of being involved in fraudulent activities, intercepting trade-union cheques and altering them for deposit in their own accounts. De Kock would say that Niewoudt made no mention of the four being suspected as double-agents

De Kock is expected to be called to testify before the commission for the first time today. He spent much of yesterday concentrating

intensely on Niewoudt's evidence and the line of questioning, his brow furrowed and his hands together before his face.

They departed the Centenary Hall premises as they had arrived, furtively, whisked through a back entrance to idling armoured cars. A small crowd of locals jostled for a view along the fence, while another crowd jeered them off into the distance at the gate.

The TRC is not meant to be about justice of retribution. But is it not, at the very least, just for ordinary, battle-scarred South Africans to enjoy the minimal retribution of witnessing the distress of their tormentors?

De Kock 'sickened as top brass shirk blame'

JOHN YELD
ON THE TRUTH COMMISSION

Port Elizabeth - Convicted Vlakplaas killer Eugene de Kock decided to testify as a state witness in the Motherwell car-bomb murder case because he was "nauseated" by police generals' efforts to distance themselves from the illegal actions of their juniors.

This was De Kock's evidence today to the Truth Commission where he is appearing as one of nine former security policemen apply-

ing for amnesty for the car-bomb murder of three black security policemen and an informer at Motherwell, near here, on December 14 1989

De Kock was brought from the new C-Max security prison in Pretoria Wearing regulation olive green prison fatigues, he appeared calm and composed as he testified about the Motherwell incident, and he spoke in Afrikaans in a confident tone

He said while he had been involved in his own trial - in which he was convicted on 89 counts, including six of murder, and sen-

tenced to 212 years in jail - he had learned about the Motherwell trial involving Eastern Cape security policemen and some of his former Vlakplaas colleagues

The policemen had denied any involvement in the Motherwell incident, and he realised there was a possibility they might be acquitted However, the final "catalyst" for him had been when he learned of the Cape High Court application by General Nic van Rensburg - also one of the nine amnesty applicants - for an interdict forbidding the Truth Commission from hearing any evi-

dence about his (General Van Rensburg's) alleged involvement

De Kock said it had been obvious to him that this was another case where the generals were running away from their responsibilities, and he decided it was time to "pull them in" He had then informed the Eastern Cape attorney-general that he was prepared to testify as a state-witness and tell everything, "so that this matter could be put to rest, particularly for the families who had

'Top cops, politicians to blame'

AAAG 1/10/97
From page 1

suffered" Three of those applying for amnesty with him - Gideon Nieuwoudt, Brigadier Wal du Toit and Major Marthinus Ras - were convicted for the Motherwell murders.

Asked why he had found it necessary to testify as a state witness, De Kock answered "Firstly, so that we can put all the facts on the table and say where these instructions really came from, maybe using that as a starting point leading upwards"

He said he had also acted out of sympathy and empathy with the families of the murdered men

During cross-examination by Kobus Booyen, for Nieuwoudt and General Van Rensburg, De Kock agreed that his motivation for testifying at the Motherwell trial was that the police generals were "running away - literally" from their responsibilities, and that he bore a great deal of bitterness towards them and politicians who had "sold him out" and "totally distanced" themselves from illegal activities which they had also been responsible for

Referring to the recent amnesty applications by police for the Steve Biko and Siphiso Mtshkulu killings, De Kock said the generals were making "a bizarre attempt" to blame senior officers who had since died, for giving instructions for illegal actions by their juniors "It seems only the dead gave instructions"

He acknowledged that he had included General Van Rensburg in this category of generals, but then added "Now, we've eventually got a general here who is acknowledging that he was involved and that he gave orders"

Asked by Mr Booyens whether he was still bitter, De Kock replied to loud applause from the crowd of about 200 in the hall "No, not bitter - nauseous"

He said the generals had committed "total treason" by selling out their juniors, but that he could understand why some of them had acted in this way "Some people just don't have the courage," De Kock said

The cost of all that gravy on the table

DONWALD PRESSLY

SOME of the commissioners serving on a variety of statutory bodies set up by Parliament since the national election in 1994 are firmly on the gravy train, living a life of luxury with whopping salaries and smart cars.

In addition, many have set themselves up in top-notch offices "with the most expensive equipment", according to research done by the Democratic Party. South Africa's taxpayers fund well over 40 statutory commissions, boards and other bodies. Since 1995 the seven leading commissions have cost the state more than R286 million. This year alone they will cost nearly R15m. The DP believes that R60-R70m a year can be saved by axing some of them and redirecting the money towards development.

The DP yesterday released a report entitled *The politics of wasteful extravagance, needless duplication and excessive power* — focusing on seven of these bodies — and argued that although some were doing useful work, others certainly were not. At best, some were just duplicating the work of others.

DP national director James Selfe said the Judicial Services Commission, which determines the conditions of employment of judicial staff, and the Katz Commission, which makes recommendations on the tax structure, stand out as examples of those doing useful work. They were not included in the DP probe. These two commissions were composed largely of part-time commissioners.

The DP recommends that:

- The Volkstatat council should be scrapped "as there was not a hope in hell of this achieving its aim (of setting up an Afrikaner homeland)". It has cost R9,9m so far, R2m this financial year alone.

- The Gender Commission should be incorporated into the Human Rights Commission (HRC) "as gender issues are, after all, human rights issues". It has cost R4,1m so far, R2,1m in this financial year.

- The Youth Commission should be scrapped "and its functions transferred to the Deputy President's office". It has cost R9,5m, of which R6,9m was spent this year.

- The Commission on the Promotion and Protection of Cultural, Religious and Linguistic Minorities should be scrapped as its work should also be carried out by the HRC. It has not yet been formed.

- The Commission for the Remuneration of Representatives — which recommends pay scales for

MPPs, provincial MPPs and local government councillors — should standardise the widely divergent pay scales of all commission members "by a process which is open to public scrutiny".

- The Pan South African Language Board must be strengthened and allowed to get on with its task of promoting multilingualism.

The HRC also comes under fire for renting plush offices in Parktown, Johannesburg for more than R18 000 a month. The HRC has also granted its chairperson, who earns R400 000 a year, and other commissioners "back pay" and increases totalling about R1m. Ordinary commissioners earn in the region of R300 000 a year, significantly more than members of parliament who earn R251 649 a year.

HRC chairperson Dr Barney Pitsoana compared his salary "with the equally unjustifiable salary of the 26-year-old Youth Commission chairperson, Ms Mahlengi Bhengu", who is paid R352 366 a year — and demanded back pay.

Selfe said: "It is ironic that there is no money for an additional printer to alleviate a backlog of about 500 cases in the HRC legal department."

Furthermore the HRC budget is being "siphoned away" by exorbitant salaries while the ideal of the protection of human rights falls by the wayside.

The HRC has cost the taxpayer nearly R19,5m in the last three financial years, but has only dealt with 20 complaints a month. The HRC is severely hampered by the fact that no Registrar of Complaints has yet been appointed, "limiting the ability of the commission's legal department to deal with complaints".

The Gender Commission, which has powers to investigate gender-related issues on its own accord or on receipt of a complaint, will cost the taxpayer R2,1m this year. Its chairperson, Thenjiwe Mtintso, earns R212 400 a year.

The Youth Commission, which must co-ordinate and develop an integrated national youth policy and development plan before the end of 1997, pays four full-time commissioners an annual package of R276 937 just what the youth commission has done "is a very well-kept state secret", says Selfe. He says that in spite of its R9,5m budget in the

current and last financial year, the Youth Commission "has not yet come up with a single youth development project".

While the DP believes that the Truth and Reconciliation Commission has served a useful purpose, "it has unilaterally extended its brief to include sectors which do not fall within its terms of reference" as it approached the end of its lifespan. This particularly applied, the DP said, to its probes into the role played by business, the media and health care officials during apartheid.

The TRC has not proved to be a cheap exercise. In the three financial years up to 1998, R173,5m has been budgeted. This includes R134m provided by the state and the balance from other funding. Chairperson Archbishop Desmond Tutu,

'All commissions should adopt performance-based budgeting and activity-based costing as guiding principles in their budgeting process to eliminate wasteful expenditure.'

receives a package of R292 000 a year — roughly in line with the pay scale of a chairperson of a parliamentary committee.

Cars provided to commissioners cost more than R3m. The most expensive is driven by commissioner Dumisa Ntsebeza — a Mercedes Benz E320 costing R263 500. Tutu's is one of the more modest — a Toyota Camry worth R143 000. Commissioner Mary Burton has opted not to make use of her car allowance.

Ordinary commissioners, of which there are 15, earn R286 000 a year. Mercedes-Benzes are favoured by seven of the 17 commissioners — including the vice-chairperson Dr Alex Boraine, who drives a C280 Elance worth nearly R190 000.

The salary bill for the entire commission in the last financial year ending in March totalled almost R36,7m. All the commissioners cost R4,9m, the national office staff of 49 people R5,1m and the 65 regional staff R17,2m.

The entire commission has cost the taxpayer more than R134,2m in three years, including the current financial year.

The Independent Broadcasting Authority, which has cost more than R87,3m in three years, pays its chairperson, Selleng Sekha, R411 520 a year — more than a deputy minister's R385 392 a year. Its ordinary commissioners also earn the most of all commissioners R328 322 a year.

In the auditor-general's report of May this year,

the state uncovered various abuses including fraud amounting to R215 000 in December last year, spending R103 742 on refreshments at 16 council meetings — an average of R6 484 a meeting.

Unaccounted credit-card spending amounting to R181 651 and R167 050 was paid for offices that were never occupied. And the DP says the attorney-general's report revealed an astonishing degree of financial mismanagement and abuse of power and privileges. While there had been little evidence so far of similar extravagant expenditure on the part of any of the other commissions, there were no formal controls over expenditure "and the potential for abuse will remain until such controls are in place".

It suggests a public review process to include:

- A business plan to be submitted by each commission to the relevant parliamentary portfolio committee which would conduct public hearings.

- The committee would then make a recommendation to the relevant department regarding the commission's business plan and budget for the next financial year.

- Should there be differences within the committee, minority reports may be submitted to the department and made public.

In this way, the DP argues, the representatives of the taxpayers — the MPPs — would be able to assess both the goals and achievements of these statutory bodies "rather than leaving the task to the (relevant) department alone".

The DP also suggests that the public accounts committee and the AG should be given the power to recover unauthorised expenditure from officials in terms of the Exchequer Act, which would have to be amended. It also recommends that all commissions should adopt performance-based budgeting and activity-based costing as guiding principles in their budgeting process "to eliminate wasteful expenditure and to link performance to expenditure".

Misuse of public office should be criminalised in accordance with similar provisions being considered by the Nolan Committee on Standards in Public Life in the United Kingdom.

The use of three-to-five-year performance contracts, a programme which is being phased in to the public service as a whole, "must be expanded to include all commissioners and all commission staff".

□ *Donwald Pressly is the political correspondent of The Mercury in Durban.*

ET 11/0/97

(252)

SALARIES HIGHER THAN THOSE OF COMPANY EXECUTIVES'

Commissions the big spenders

THE DEMOCRATIC PARTY suggests some commissions be axed and budgeting improved, but the ANC says government and Parliament cannot interfere. Political writer DONWALD PRESSLY reports

AN opposition call for reconsideration to be given to expensive "independent" commissions — whose staff receive top-notch salaries, cars and luxury office space — has not fallen on deaf ears in the African National Congress.

The Democratic Party's report on seven leading commissions — including the Independent Broadcaster's Authority, Commission on Gender Equality and Truth and Reconciliation Commission — says there are wide disparities in the salaries of commissioners and that some commissions duplicate much of each other's work.

The DP, which prides itself as a financial watchdog in Parliament, believes that the annual R330-million bill to the taxpayer could be cut by up to R70m if certain commissions were axed.

Top of its hatchet list is the Youth Commission, which swallowed R2,5m last year and is to spend R6,9m this year.

It believes the Commission on Gender Equality should be absorbed into the Human Rights Commission (HRC) and the Volksstaat Council, convened to set up "an unobtainable" Afrikaner homeland, scrapped.

The work of the Commission on the Promotion and Protection of Cultural, Religious and Linguistic Minorities — which has yet to be established — should be carried out by the HRC, the DP suggests.

Mr Willie Hofmeyr, ANC MP and a leading member of the parliamentary committee on justice, said last night the government would consider the DP's proposals about increasing the financial accountability of the commissions. There are about 40 commissions.

However, Hofmeyr warned the DP not to undermine its argument, made during the constitutional negotiations,



'INDEPENDENT': Willie Hofmeyr

that commissions should be free of intrusion by the government and Parliament.

In a "chavavist" world, it would not be justified if Parliament dictated policy to the gender commission.

The duplication of work should be discussed by the commissions rather than be subject to dictates by government and Parliament, Hofmeyr said.

The DP proposes that the Exchequer Act be amended to allow Auditor-General Mr Henn Kluwever and the Public Accounts Committee — chaired by DP MP Mr Ken Andrew — to recover unauthorised expenditure from officials who permitted the transactions.

This would avert a recurrence of the debacle in the IBA, whose staff were granted loans without proper contracts, used hotels near their homes and failed to provide supporting documents for expenses paid by credit card.

The DP also proposes that:

- All commissions link expenditure to performance by basing their budgets on their activities
- The Public Accounts Committee devise guiding principles whereby a commissioner's performance may be reviewed annually by the portfolio committee
- Commissioners and commission staff be appointed under performance contracts, which are being phased into the public service.

DP national director Mr James Seife believes the Youth Commission's work can be carried out by the deputy president's office. He says this office could draw up a national youth policy that should include a special employment programme.

The Youth Commission's work amounts to "a state secret" and its chairperson, Ms Mahleng Phengu's salary is

far too high at R350 000 a year, Seife says. Archbishop Desmond Tutu, chairperson of the TRC, earns less than R300 000 a year.

Hofmeyr said he believed the DP's figures might be inaccurate as some probably excluded "fringe benefits".

According to the DP's research, the head of the IBA is paid R411 520 a year. Next-best paid is the chairperson of the HRC, who receives R400 000 a year.

The chair of the Gender Commission is paid R212 400 a year.

Ordinary commissioner's packages range from R163 260 a year for gender commissioners to R328 322 for IBA councillors.

The gender commissioners also receive an R877 monthly home allowance and a R3 709 car allowance.

The DP argues that these salaries should be compared with those of other senior public servants.

The national commissioner of police earns R303 000 a year and the chairperson of the parastatal Transnet, R330 400.

Using 1994 figures from the Human

Sciences Research Council, the DP said some commissioners' salaries compared favourably with the average of R365 200 a year earned by the chief executives of private companies. A medical specialist with 20 years' experience could expect to earn about R248 000 a year in the private sector.

Teachers with 13 years' experience earned less than R70 000 a year.

Hofmeyr noted that the DP had supported the establishment of all but the gender commission.

"The DP, more than anyone else, was pushing for them to be strongly independent of Parliament and the executive," Hofmeyr said.

"One does get the feeling at times that the DP's left hand does not quite know what the right hand is doing."

Explaining this, Hofmeyr said the DP supported plans by the National Party-dominated Western Cape legislature to create more commissions, including an environmental commission and a children's commission.

Finance Ministry spokesperson Ms Jennifer Wilson said last night that commissioners' salaries and benefits were examined by a central evaluation committee which fell under the State Expenditure Department, which in turn answered to Minister of Finance Mr Trevor Manuel. It was guided by salary parameters.

Commenting, Seife said that if this was true, these bodies obviously were not doing their jobs.

Wilson said Manuel's argument was that the commissions had been set up in terms of the Constitution and were supposed to be "at arm's length" from the government.

"Any interference by government could undermine the function they have to fulfil."

Seife, however, said commissioners

Commissioners Salary packages

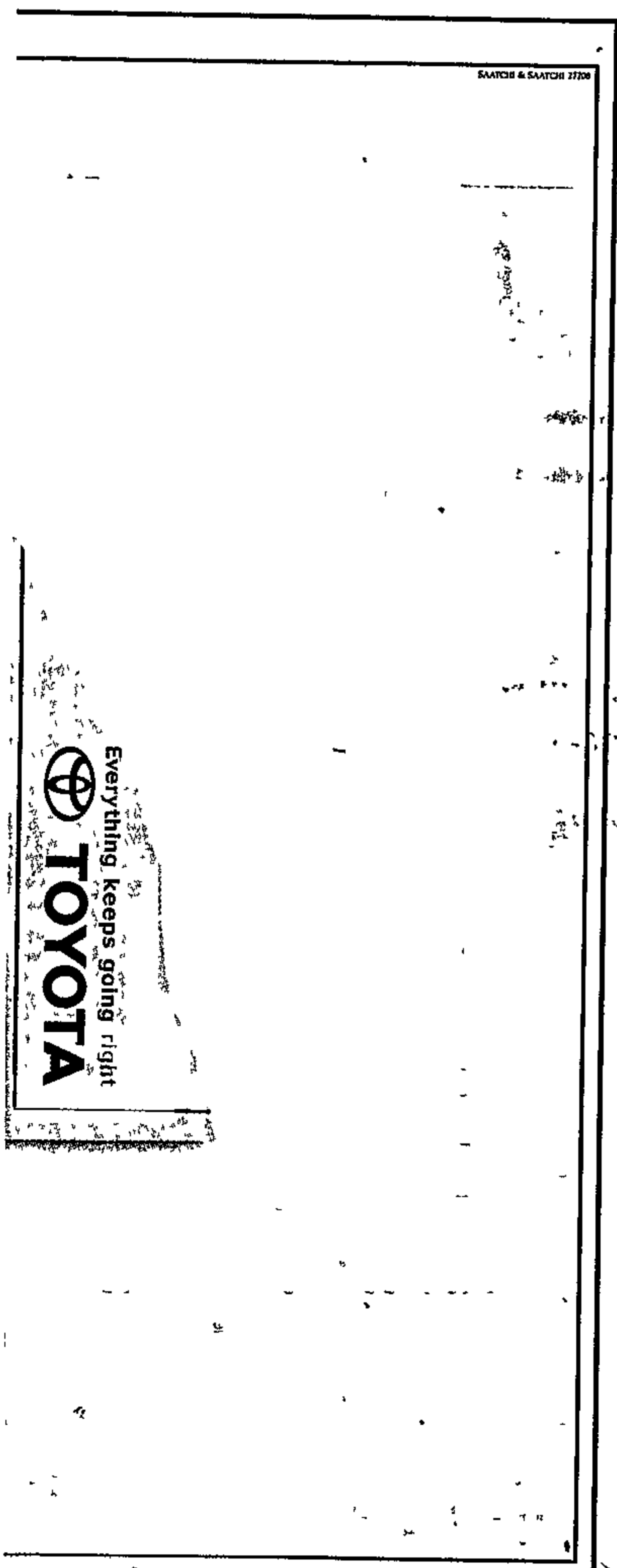
Commission	Chairman	Full-time Comm	Part-time Comm
Human Rights Commission	R400 000	R300 000	Not available
Gender Commission	R212 400	R163 260	R80 per hour
Youth Commission	R352 366	R276 937	Not available
IBA	R411 520	R328 322	Not available
TRC	R292 200	R285 000	Not available
ParSALB	Not available	Not available	Not available
Volksstaat Council	R266 587	R191 712	R761 per day

Comparison of Various Salary Packages

Occupation	Public Sector	Private Sector	Self-Employed
Accountant	1457 000	149 300	200 000
Architect	118 000	77 200	163 600
Computer Programmer	843 000	272 000	115 100
Economist	112 400	132 900	170 000
Marine Engineer	150 100	182 700	219 200
Mechanical Eng	120 000	143 600	200 000
Medical Specialist	149 400	248 900	240 000
Professional Nurse	53 500	57 000	240 000
Quantity Surveyor	136 800	163 600	240 000
Teacher	68 800	59 600	140 900

were granted packages without regard to their qualifications or experience. "Serving on a commission should be seen as an honour awarded to those who

have reached the top of their fields, not a money-making opportunity. Voluntary and part time service should be encouraged." ● See Page 8



Everything keeps going right
TOYOTA

Comrade killers seek TRC amnesty

252

Sowetan 1/10/97
TWO of the country's most notorious apartheid-era assassins – former police hitsquad commander Eugene de Kock and Port Elizabeth security policeman Gideon Nieuwoudt – are pitted against each other in their bid for amnesty for killing four people in the 1989 Motherwell car bombing

De Kock is expected to contradict key portions of Nieuwoudt's testimony to the Truth and Reconciliation Commission's amnesty committee when he begins testifying in Port Elizabeth today

De Kock's lawyer Mr Schalk Hugo yesterday challenged Nieuwoudt's evidence, saying his client would dispute the policeman's recollection of events leading up to the bombing

De Kock and Nieuwoudt are among nine former security policemen seeking amnesty for the bomb blast in which three black security policemen and an informant were killed. Nieuwoudt testified yesterday that on the night of the blast, he ordered the four to keep watch on the home of a known "terrorist" in Port Elizabeth's Motherwell township

He then gave them a white Volkswagen Jetta which had earlier been fitted with explosives by members of the security police's technical unit

When the vehicle had travelled about 100 metres, Nieuwoudt said he detonated the explosives by remote control, triggering a massive explosion which blew the car to pieces. How did it feel, he was asked, to detonate the bomb. "I was hesitant," he replied. "They were my colleagues." Nieuwoudt wants amnesty for 10 murders he helped carry out while stationed in Port Elizabeth during the 1980s

De Kock, who is serving a lengthy jail sentence for six murders among other crimes, says in his amnesty application that he is seen as the person who, with the help of Vlakplaas security police base operatives, killed 65 enemies of the state

As Nieuwoudt testified in Port Elizabeth's Centenary Hall yesterday, De Kock sat in a chair behind him, looking relaxed, but showing no emotion – *Sapa*

TRC SUMMONS PW

Top members of Botha's cabinet also told to appear at hearings

Sawyer 1/10/97

FORMER state president Mr PW Botha and several members of his cabinet have been subpoenaed to appear at a Truth and Reconciliation Commission hearing on the State Security Council in Johannesburg next month.

TRC chairman Archbishop Desmond Tutu told journalists yesterday that Botha's lawyers had said that Botha would for health reasons not be able to attend the three-day hearing, which starts on October 14.

They asked that the subpoena issued at their suggestion after an initial invitation from the TRC — be withdrawn.

Tutu said the TRC had indicated it would not withdraw the subpoena and requested a medical certificate, which had been supplied, plus a full medical report, which was faxed through yesterday morning.

"We are exploring an alternative date for his appearance," he said.

Botha recently underwent hip replacement surgery and Tutu said there were apparently post-operative complications. He did not want to give further details.

"We will be passing this on to our medical people to ascertain but it seems satisfactory," he said.

Asked if the commission might travel to the southern Cape, where Botha lives, Tutu said they would be looking at "the best possible way of doing this given his medical condition".

He said others subpoenaed for the security council hearing included former defence minister General Magnus Malan, former law and order minister Mr Adriaan Vlok and a former secre-

tary of the State Security Council General Pierre van der Westhuizen.

Former foreign affairs minister Mr Pik Botha and his cabinet colleagues Mr Roelf Meyer — now a key figure in the United Democratic Movement — and Mr Leon Wessels had accepted invitations to the hearing and had subsequently been subpoenaed as a formality.

Armed forces

Tutu said three generals and an admiral of the former SA Defence Force, including former SADF chiefs General Constand Viljoen and General Janne Geldenhuys, had been subpoenaed to appear at the TRC's special hearing on the role of the armed forces during the apartheid years.

The hearing will take place in Cape Town from October 7 to 10.

Subpoenas had also been served on six officers of the former SA Police, including former commissioners General Johan van der Merwe and General Johan Coetzee, and former spy Major Craig Williamson, four former Umkhonto we Sizwe commanders, including Defence Minister Joe Modise and his deputy Mr Ronnie Kasrils, and five leaders of the Azanian People's Liberation Army, including Mr Johnson Mlambo.

Current head of the SA National Defence Force General Georg Meiring would also give evidence and respond to questions sent to him since his last appearance before the commission last year.

In addition to the subpoenas, notices had been served on 25 former military and political figures from former government and African National

Congress forces, indicating that they would be implicated during the hearings "in a manner which may be to their detriment".

Tutu also said Botha's lawyers told the commission on Monday that they had dealt with only half of the questions that the TRC submitted to the former president in February, and that they would not be able to meet the TRC's September 30 deadline.

They had said they might be able to complete the task by the end of October or November instead.

Tutu said this was a "totally unsatisfactory situation" given the pressure on the commission to produce its final report by March next year.

As a compromise it had been arranged that the lawyers would feed the commission with replies piecemeal, as they were completed. *Sapa*

Commissions costing taxpayers R287-m

By Rafiq Rohan
Political Correspondent

SEVEN Government-appointed commissions are costing the taxpayer close to R287 million and the time has come for the Government to reconsider their viability, Parliament was told yesterday

This year alone the Government has spent R114,1 million on the Human Rights Commission, the Gender Commission, the Youth Commission, the Independent Broadcasting Authority, the Truth and Reconciliation Commission, the Pan South African Language Board and the Volkstaat Council

R50 million has gone into the coffers of the TRC, followed by the IBA with R35 million, the Pan SALB with R11,2 million, the Youth Commission

with R6,9 million, the HRC with R6,8 million, the Gender Commission with R2,05 million and the Volkstaat Council with R2 million

In Parliament yesterday the Democratic Party released a research report on the statutory commissions and concluded that some of the commissions should be scrapped, that remuneration packages were too high and a number had the potential to be abused

Scrapped

Two commissions in the DP's firing line are the Volkstaat Council and the Youth Commission, which the party wants scrapped

The DP recommends that the Gender Commission be absorbed by the Human Rights Commission. It has called for the standardisation

of packages for commissioners

DP executive director Mr James Selfe said "Serving on a commission should be seen as an honour awarded to those who have reached the top of their fields, not a money-making opportunity"

He said stricter financial controls of the commissions had to be enforced

Performance criteria needed to be established and misuse of public office — which must also apply to MPs — must be criminalised

The DP report singled out the Youth Commission, stating that it remained 'a mystery' as to what purpose it served

It also argued that the Volkstaat Council was "patently" useless because there would never be an Afrikaner homeland in South Africa

Lowetian 1/10/97 (252)

Self-accounting urged on legal profession

THERE is strong resistance in the legal profession — and particularly among its senior members — to proposals by the truth commission for a hearing at which the profession would account for its collective behaviour during the apartheid years.

On one view, the idea of outsiders calling the profession to account is offensive and potentially undermines its independence.

Another perspective asks if there is anything to answer for. The underlying idea is that judges, magistrates, practising lawyers and prosecutors had no choice but to apply the statutes then, whatever their private reservations.

I would argue, firstly through a "juridical" analysis of the judicial decision-making process, and, secondly, through a "sociopolitical" analysis of the relationship between the law and the apartheid system, in favour of a form of "institutional" accountability of the judiciary and the legal profession.

John Dugard and other legal academics have underscored that judges are not mere automatons — the judicial decision-making process entails making choices.

The point is made in one of Dugard's many journal articles. "During the period 1960 to 1982, the SA Appellate Division handed down a number of decisions on race and liberty which showed a determination to buttress and extend the power of the executive and to further the legislative programme of apartheid."

In all these cases, there was a clear judicial choice open to the judges, in the sense that they were required to interpret ambiguous statutes or to apply the common law to new circumstances.

It is evident in a case like *Rouxson vs Sachs* — which held, in the absence of clear statutory language that a detainee's right to receive reading material was entirely excluded — that a judge with a different jurisprudential philosophy, or perhaps less loyalty to the prevailing order, might have reached a more humane decision

The legal profession at best reflected the apartheid racial order, and at worst was its

willing agent, argues Firoz Cachalia

"Choice" is important because it is at the centre of our notions of moral responsibility, indeed it is at the centre of the law's own conception of justice. The law imposes civil or criminal liability only for the acts or omissions when they are accompanied by the requisite state of mind. Thus our notions of legal liability rest on a foundation of ethical responsibility.

If those notions who arrested and assaulted the government's political opponents are to be held accountable, along with their political masters, why not those who convicted and sentenced them, or who exonerated their abusers?

Is Dugard's insight — that judicial discretion may be exercised either to affirm or curtail the basic rights of individuals — irrelevant to this inquiry?

Dugard's analysis, however, limits the gaze to the judiciary, when the focus should be on the legal system as a whole. He himself observes the scope for judicial creativity was limited to the interpretation of statutes, the development of the common law and the review of subordinate legislation and administrative action.

His theory is also of little help in analysing decision making in lower courts. Magistrates, whom he describes as "products of their upbringing" and "captives of the bureaucracy", had less scope for creative lawmaking. And the idea of judicial choice is of little value in explaining the systemic nature of racial oppression under apartheid and the enduring patterns of human rights abuse.

The sociopolitical perspective identifies how law functioned as part of the apartheid system, highlighting the connection between law and politics, society and power. It sees law as a set of social relationships among individuals

who have different kinds of power over each other's fate.

It focuses not only on the courts and judicial offices, but on the legal system as a whole, illuminating not individual decision making but institutionalised patterns of behaviour. It aims to explain the patterned nature of racial outcomes in SA.

This analysis of the law has relevance in wider fields. We are all angry about the past. We constantly trade epithets across the colour line, suspecting each other of vengefulness or hypocrisy. A sociological perspective helps us to recognise it is perfectly possible and legitimate for some "white" individuals sincerely to feel they did not support apartheid and should not be painted with the same brush as its active agents,

and for "blacks" objectively oppressed as a group to demand corrective justice from all whites.

In his book *Reconciliation Through Truth* — a Reckoning of Apartheid's Criminal Governance, Ronald Suresh Roberts argues apartheid's distinctive normative infliction on blacks of severe ill-treatment by the state and civil society.

One need not espouse a narrowly instrumental conception to see that the law, through its enactment by an all-white legislature, its interpretation by an all-white judiciary, and its enforcement by a police force controlled by the National Party was intrinsic to the injustices of apartheid.

A recent submission by Judge Kathleen Satchwell to the truth commission goes to the heart of the matter. "I believe it is important that the violations of the human rights which took place in this country should not be seen as isolated and momentary aberrations on the part of a few uncontrolled individuals.

"(They) took place over a long period of time and in a systematic manner. (They) did not take place in spite of the rule of law and the protection of law. They took place because our legal system permitted and even encouraged such violations to take place."

The "sociopolitical" analysis should not be limited to state apparatuses and the public domain. If one examines the patterns of recruitment into the legal profession, the approach of Law Societies to many public issues, the client base and membership of law firms and the patterns of provision of legal services, it is clear that the profession at best reflected the racial order, and at worst was its willing agent.

It seems to me that as the law and apartheid were so intrinsically linked, the legal profession has, perhaps more than any other, a responsibility to account.

The accounting process should not be structured as a quasi-judicial proceeding aimed at establishing individual or even collective guilt. Rather, as anticipated by statute, it should facilitate "institutional" accountability.

One of the truth commission's aims is to establish as complete a picture as possible of the causes, nature and extent of gross human rights violations. Judge Satchwell has argued the picture will be incomplete without examination of the legal system and administration of justice during the period.

Submissions to the commission by representatives of the legal profession would help establish a public record of the causes, forms and consequences of human rights abuse under apartheid. The view that this record already exists in the writings of academics misses the point. We need to establish it by a public process set up for this purpose. The record would undoubtedly show that many judges steadfastly upheld the rights of individuals where they could.

A second objective of the commission is to "afford victims an opportunity to relate the violations they suffered." Victims have an interest in identifying the actions and omissions of the law profession that might have caused or prevented their suffering.

One aim of a hearing by the commission's human rights violations committee into the role of the law and the legal profession would be to identify the institutional changes necessary to avoid the recurrence of such abuses. It would help to revive respect for legal constraints on the exercise of power.

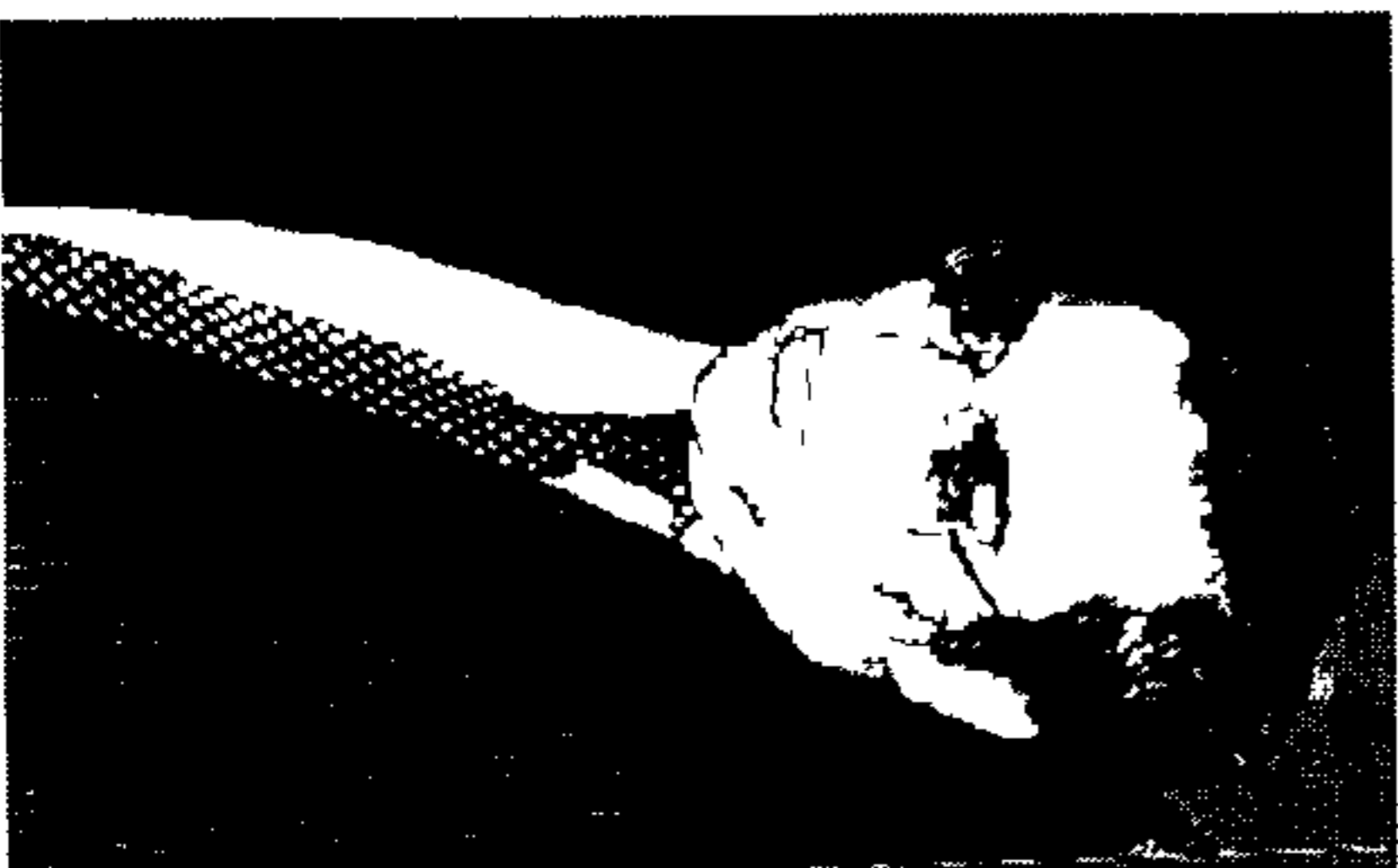
Submissions of this kind could also help in assuaging grievances and overcoming rifts in the legal community. The Transvaal Law Society's decision to oppose President Nelson Mandela's application for enrolment as an attorney and the widely known humiliations inflicted by colleagues on the present chief justice are powerfully symbolic because of the stature of the individuals involved — but they were not isolated cases. The legal profession was and still is deeply divided on racial lines.

A submission to the commission acknowledging this fact would do much to restore the legitimacy of the profession within society, and heal its internal divisions. It would also contribute to reconciliation and nation building. The law's great principles would otherwise be revealed as empty shibboleths without relevance to a country in search of a new identity and a shared conception of public justice.

□ Firoz Cachalia is an African National Congress member of the Gauteng legislature.



MANDELA



MOHAMED

R286m 'wasted on commissions'

Jacob Dlamini

CAPE TOWN — Taxpayers had spent more than R286m since 1995 on commissions which had not done work to justify the money spent on them, Democratic Party (DP) spokesman James Selfe charged yesterday.

Speaking during the launch of a DP report on seven statutory commissions, Selfe accused the government of wasteful extravagance, needless duplication and giving state-appointed bodies excessive powers.

The report was based on a survey of the constitutional provisions and the legislation used by government to set up commissions. The results of the survey were used to compile an inventory of the commissions' terms of reference, areas of jurisdictional overlap and possible excessive powers.

Selfe singled out the Human Rights Commission and the Gender Commission, saying the two had overlapping functions. They had budgets of R6,8m and R2m respectively for the current financial year. This duplication placed an unnecessary strain on the country's resources, Selfe said.

He said the levels of remuneration for commissioners were excessively high and often not justified by the work done. Several commissions had found themselves in the "ludicrous position of not having funds available to do any work" after commissioners' salaries had been paid.

These included the Pan SA Language board, which had battled since its inception in 1995 for funds needed to develop an infrastructure. The board, allocated R11,2m this year, had had to begin work without support staff and remained in limbo.

Selfe said the commissions suffered from a lack of formal expenditure controls and accountability mechanisms and that this had created a potential for abuse.

An example of this was the Independent Broadcasting Authority, when five councillors resigned after accepting collective responsibility for

BDI 11/10/97 20(52)
financial mismanagement and other irregularities

Selfe recommended the salary packages of commissioners be standardised and called for the brief of the Commission for the Remuneration of Representatives to be expanded to allow it to determine salaries for commissioners.

There was a need for the establishment of financial controls and performance criteria for commissioners. Commissions should also be asked to prepare annual business plans, including a list of objectives and the budget needed to meet them, which would be subject to public scrutiny.

Selfe said the misuse of public office should be made a criminal offence and that serving on a commission should be seen as an honour bestowed on those who were achievers in their areas of speciality.

He called for the scrapping of the Commission on the Promotion of Cultural, Religious and Linguistic Minorities and its forerunner the Volkstaat Council. These two were redundant, as there was no prospect of a volkstaat being established, while their briefs overlapped with the Pan SA Language Board, which needed to be strengthened.

Selfe said the Gender Commission should be collapsed into the Human Rights Commission and the Youth Commission scrapped and its functions transferred to Deputy President Thabo Mbeki's office.

The Youth Commission was not provided for in the constitution and yet its 26-year-old and inexperienced chairman was given a yearly salary of R352 366, Selfe said. This was substantially more than the salary of police commissioner George Fivaz.

Selfe said the Youth Commission had failed to display the organisational skills needed to justify its budget. The commission had also failed to devise a single youth development strategy since it was formed last year.

He said an estimated R70m in taxpayers' money would be saved if his recommendations were accepted.

PW and five ex-ministers subpoenaed

BD 11/10/97

(252)

David Greybe

CAPE TOWN — The truth commission had subpoenaed former president PW Botha and five former National Party (NP) ministers to appear at its hearing on the state security council, commission chairman Archbishop Desmond Tutu said yesterday.

Tutu said Botha's lawyers had informed the commission that for health reasons he would not be able to attend the hearing in Johannesburg from October 14-16. However, the commission was exploring an alternative date, and his appearance could be linked to an inquiry planned in George.

Tutu said more than 20 former and current political and military leaders from across the political spectrum had been "invited or subpoenaed" to give evidence on the state security council and on the roles played by armed forces during the apartheid era.

Former defence ministers Gen Magnus Malan and Roelf Meyer, law and order minister Adriaan Vlok, foreign affairs minister Pik Botha and deputy law and order minister Leon Wessels had been subpoenaed.

The commission had turned down a request by PW Botha's lawyers to withdraw the subpoena and had requested a medical certificate, which was supplied. A medical report was yesterday faxed to the commission which, Tutu said, "seems satisfactory". Botha was suffering from post-operative complications after hip replacement surgery.

The subpoenas on Pik Botha, Meyer and Wessels were served "as a formality" after the three had accepted earlier invitations to appear at the hearing.

The hearing on the role of the se-

curity forces of the former NP government, the African National Congress and the Pan Africanist Congress would take place in Cape Town from next Tuesday to Friday, Tutu said.

Subpoenas for this had been served on three generals and an admiral of the former SA Defence Force, and on two defence force chiefs, on six officers of the former SA Police, including two former commissioners; on four former Umkhonto we Sizwe (MK) commanders; and on five former Azanian People's Liberation Army leaders.

Gen Georg Meiring, current head of the SA National Defence Force, would give evidence "and respond to questions sent to him since his last appearance before the commission last year".

Former MK commander and now Defence Minister Joe Modise, his deputy Ronnie Kasrils and Transport Minister Mac Maharaj would also give evidence at the armed forces hearing.

Tutu made an impassioned appeal, hours before last night's amnesty deadline, to whites to help "shut the door on (SA's) horrendous past" by taking advantage of the commission's "generous" procedures. None of the victims of apartheid-era abuses whom he knew were looking for revenge, even though they had "suffered deeply. Can you white South Africans hope for anything more generous?" Tutu asked.

Sapa reports that last-minute amnesty applications were flowing in. Commission spokesman Christelle Terreblanche said about 53 applications had arrived during the day, bringing the total number received during the month-long "special window period" to 80. In total, more than 7 000 people have filed for amnesty.

Nieuwoudt denies planning murders of policemen and informer

PORT ELIZABETH — Security policeman Nieuwoudt visibly reacted yesterday when an attorney acting for the families of two of the men he blew up said he was responsible for planning the killing.

Earlier yesterday, explosives expert Nieuwoudt claimed he had acted on a direct order from security police divisional commander, the late Brig Fanie Gilbert, to kill three black colleagues and an informer outside Motherwell on December 14, 1989.

Nieuwoudt said two of the men were double agents spying for the ANC, but family counsel Eric Ford told Nieuwoudt he had grave doubts the amnesty applicant was making a full disclosure.

In chilling detail, the Truth and Reconciliation Commission's amnesty committee was told of Plan B — to shoot the four — if Plan A, to blow them up, failed.

Nieuwoudt claimed that his superior Mgoduka was an ANC spy, but it also became clear that Mgoduka and his colleagues were murdered when they threatened to expose security police involvement in the Matthew Goniwe murders.

Nieuwoudt told the commission. "We feared that other undercover operations would be exposed." As he continued to blame the decision to kill the four on Gilbert, who has since died, Ford told Nieuwoudt it was his idea and that he had pushed Gilbert into ordering the murders.

An angry Nieuwoudt replied "I disagree I could not give him that order I told him what the implications were and he gave the order." But Ford told Nieuwoudt that Gilbert had thought the best idea was to transfer the three security policemen out of the Eastern Cape.

Nieuwoudt said "I told Gilbert transferring them would solve the problem. They would still be able to give information to the ANC." "If he had ordered their transfer, I would have accepted it." When Ford suggested they could have imprisoned them to prevent their defection to the ANC, Nieuwoudt said the men would still have been able to pass on messages.

In the concept of a "total intelligence" network, he explained, there was no guarantee that further information would not be leaked.

Nieuwoudt said one of his informers had been detained by the ANC at its Quatro camp in Angola, while another had been killed.

Ford drew loud applause from the Centenary Hall crowd when he said that everybody involved in the cover-up must be brought to justice.

Nieuwoudt admitted earlier that the security police deliberately conspired to cover up the bombing.

Asked why he had not disobeyed Gilbert's order, Nieuwoudt said "Not in the culture I was indoctrinated in I was told to fight the ANC I was loyal to my commanding officer, the security branch and my country."

That is why I carried out the order," the committee heard how Nieuwoudt was told to go to Pretoria and meet fellow applicant Gen Nic van Rensburg along with Eugene de Kock.

Nieuwoudt denied that allegations of fraud against Mgoduka and victim Const Desmond Mapiya — apparently siphoning money from security police interception of mailed church cheques — had anything to do with their murders.

Van Rensburg was in command of G10 section, under whose operations Vlakplains fell, Nieuwoudt said he was told by Gilbert to obtain assistance from outside Port Elizabeth to carry out the murders.

He said Van Rensburg gave instructions to De Kock to assist him. "We then went to Vlakplains and returned to Port Elizabeth the same day (December 12, 1989 — two days before the bombing)." On the day of the bombing, December 14, a remote controlled device was placed in an unmarked police Jetta with false number plates.

Nieuwoudt — booked off ill yesterday — looked visibly tired and occasionally glanced at the ceiling.

De Kock sat behind him dressed in his regulation prison greens — he is serving life plus 212 years in Pretoria's new CMax prison — he appeared to ignore the other applicants De Kock is expected to give evidence today — ECN

(252) bD 1/10/97

Gloves off as lawyers point fingers at apartheid past

BLACKMAN NGORO
STAFF REPORTER

The stage is set for a bruising battle between black and white lawyers over who is to blame for human rights violations during the apartheid era.

Several white-controlled legal bodies are set to defend claims by their black colleagues that they were willing bedfellows with the apartheid state machinery.

"We are not saying all white lawyers were bad news. There were some like Joe Slovo, Braam Fischer and Albie Sachs who refused to be on that side," said National Association of Democratic Lawyers general secretary, Vincent Saldanha.

But he questioned how far other white lawyers went in articulating their opposition to apartheid.

"That is what we mean when we say they must accept responsibility for their role under the apartheid government. Saying sorry is not enough."

"Take for instance the issue of influx control where millions of people suffered. Could not those who implemented it on behalf of the

apartheid state have objected - those white members of the Law Society?"

Mr Saldanha asked.

But the General Council of the Bar of South Africa counters, in its submission to the Truth and Reconciliation Commission, that "In every instance the National Party pursued its goal of apartheid with ferocious determination overriding all opposition. It is impractical and unrealistic to think that the courts would have stopped those excesses."

The Black Lawyers' Association has also entered the fray, claiming the Law Society will shed crocodile tears at the TRC this coming week.

But Theunis Steyn, acting vice-president of the Cape of Good Hope Law Society, says "We kept an apologetic role. Let's see what our crocodile tears are like first. We are going to tell the truth, apologise where we have let the people down, where there were certain negative things and where we should have done more. We are not going to try to convince anybody in our submission which covers the period 1960 to 1994. We are not on trial, we will tell them what we know and let the TRC make its own assessment."

Meanwhile, Nona Gosso, senior advocate in Cape Town, could not resist a swipe at the General Council of the Bar of South Africa's Cape branch.

"Let's take the current situation at the Cape Bar. I started practising as an advocate and keeping chambers in 1986. Still I occupy the smallest rooms in the building."

"Each time I apply for vacant and bigger rooms I'm told they have been allocated to an advocate admitted earlier than myself. But would that be the case were I a white woman advocate with my seniority?"

"This is an indictment against the judiciary in this country. The black person was discriminated against first and foremost as a black person, then as a black lawyer."

She said she wanted the problem to be addressed.

"The Law Society must come out in the open about its tacit support of the apartheid system. They never raised a finger to support a black member of the society."

"The Cape Bar society has done nothing to assist young black professionals who want to enter the legal profession."



Squeezed: senior advocate Nona Gosso in Huguenot Chambers' smallest room

ROY WIGLEY

DP urges Government to streamline commissions

POLITICAL STAFF

Cape Town – At least R60-million of taxpayers' money could be saved this year and diverted to development if the Government agreed to rationalise its wide variety of commissions, according to the Democratic Party

DP executive director James Selfe said this week that of the plethora of commissions, seven alone had cost R286-million in the past two years without producing output to justify this huge spending

There were more than 40 statutory commissions, some set up by the constitution, as well as boards and other bodies performing a wide variety of tasks.

Commissions were draining the fiscus without showing any concrete results

Selfe said several commissions, notably the Human Rights Commission and Gender Commission, had overlapping functions. Salaries were excessively high and in many cases unjustified by the work being done

"Several commissions have

Star 2/10/97
found themselves in the ludicrous position of not having funds available to do any work after commissioners' salaries are paid "

There was a lack of formal controls on spending. The Independent Broadcasting Authority was a perfect illustration of the problems that could arise, Selfe said

A report on the seven commissions said South Africa, given its past, needed institutions to protect people from abuse of power by the state and private individuals.

Few citizens had the educational or economic advantages to empower them to ensure their own protection. However, the report found duplication as well as high living

Over the past three years, the Human Rights Commission had cost R19-million, the Gender Commission R4-million, the Youth Commission R9,4-million, the IBA R87,3-million, the Truth and Reconciliation Commission R134-million, the Pan South African Language Board R22,5-million and the Volkstaat Council R9,8-million

The Gender Commission was

(252)
unable to handle inquiries, its functions overlapped with the HRC and it had the same sweeping powers as the HRC, although gender commissioners received lower salaries

The DP recommended

■ Standardising salary packages for commissioners, putting this in the hands of an expanded commission for remuneration of representatives;

■ Establishing financial controls, including annual business plans, subject to public review,

■ Criminalising the misuse of public office,

■ Encouraging voluntary and part-time service, and serving on a commission being seen as an honour rather than an opportunity to make money;

■ Abolishing the Volkstaat Council,

■ Absorbing the Gender Commission into the HRC,

■ Abolishing the Youth Commission and transferring its functions to the deputy president's office.

Selfe said the DP would pursue these goals by various means

'PRIME EVIL' TURNS ON FORMER SUPERIORS

There was no integrity at top

CT 2/10/97

(252)

Apology 'came from his heart'

PORT ELIZABETH: The man known as "Prime Evil" said yesterday he would be a thorn in the flesh of his former superiors in the months to come. **ROGER FRIEDMAN** reports.

DEATH-SQUAD commander Eugene de Kock lashed out yesterday at the "spineless" behaviour of his former superiors — right up to former state president Mr F W de Klerk — whom he accused of "running away" from accepting responsibility for the actions of their troops

De Kock, who is serving an effective 212-year prison term for his apartheid-era misdeeds, including five murders, was making his first appearance before the Truth and Reconciliation Commission's amnesty committee, in connection with his role in the 1989 killing of three security-police underlings and an informer in what came to be known as the Motherwell Bombing

De Kock, known as "Prime Evil" said he was not out to make friends or influence people, and would be a persistent thorn in the flesh of his former colleagues during his appearances before the amnesty committee

"I take full responsibility from me downwards for all the actions of my members, but no more from me upwards, to the top," he said "I incorrecly believed that there was integrity and moral fibre in the hierarchy, but I regret this is not the case

Those police generals who have been subpoenaed to explain themselves to the commission in Cape Town next week will have taken note of De Kock's



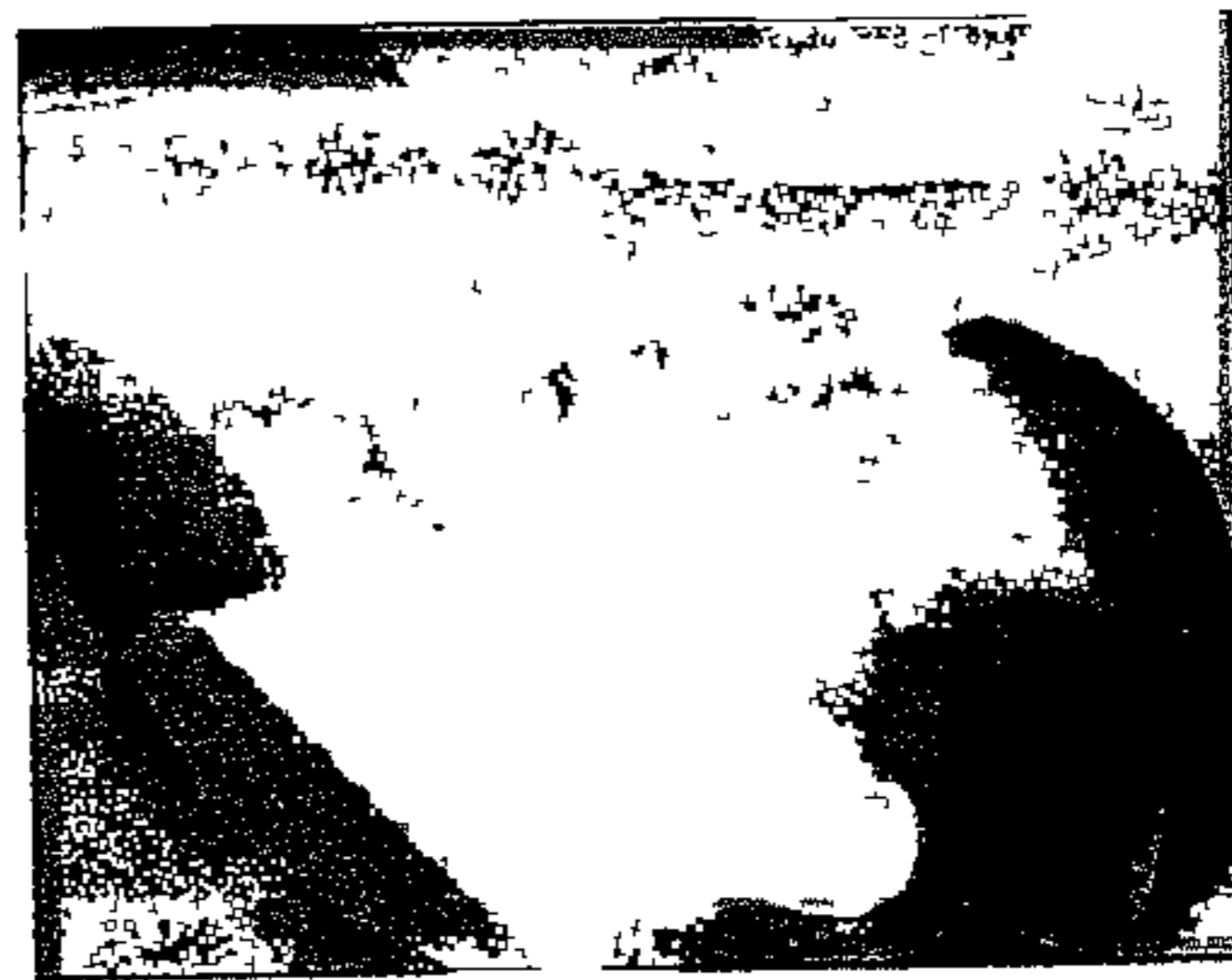
FATHERLESS: Siva Mgoduka listens to evidence on his father Glen's murder with him is Pearl Faku whose husband Amos was also killed in the bombing

description of their would-be-innocent posture as "nauseating"

And the politicians subpoenaed to appear before the commission in Johannesburg in a fortnight to explain the workings of the State Security Council will equally have taken note of De Kock's accusation that they were attempting to hide the truth that the apartheid state was nothing more than a police-state This group included De Klerk, "the former state president who has now run away", De Kock said

De Kock said he received a message from a police general while he was awaiting trial in December 1994 informing him that "the generals" had decided to "totally distance themselves" from his actions

These were the very people who had previously been responsible for autho-



THE TRUTH: Eugene de Kock takes the oath. **PICTURES BENNY GOOL**

using the actions, for issuing orders and instructions Their "totally traitorous" attitude made him sick

De Kock said the court application by General Nick van Rensburg last year to prevent his name being mentioned in TRC proceedings without being given notice had been the "catalyst" for his volunteering to give evidence at the Motherwell Bomb High Court trial

This evidence, in exchange for indemnity from prosecution in the case, led to the conviction of three former policemen, including Gideon Niewoudt, who was sentenced to 20-years imprisonment

Van Rensburg, the three Motherwell bombers and four other former policemen are now De Kock's co-applicants for amnesty. De Kock showed yesterday that he

was prepared to contradict their evidence

Apart from disagreeing with Niewoudt's evidence on the reasons for planting the Motherwell bomb, De Kock clearly had Niewoudt in mind when he said he found it "bizarre" the way former operatives were trying to convince the commission that all the people who issued orders were now dead

"It appears only the dead gave orders," De Kock said, pointedly referring to evidence led in the Steve Biko amnesty application, which he listened to on the radio in his prison cell last month

Niewoudt — who has also applied for amnesty in relation to Biko's killing — said on Tuesday that he was ordered to eliminate the Motherwell four by the late Brigadier Fanie Gilbert

ROGER FRIEDMAN

PORT ELIZABETH: Eugene de Kock yesterday seemed to win over large segments of the audience in the Centenary Hall with his forthright evidence to the Truth and Reconciliation Commission

Even family members of the Motherwell Bombing victims were impressed, saying they found De Kock's evidence more believable than that of Gideon Niewoudt's the previous day

The crowd of about 500 on occasion applauded his evidence, particularly De Kock's cutting responses to cross-examination by Mr Cobus Booysens, appearing on behalf of Niewoudt and General Nick van Rensburg

After De Kock had completed his evidence, Motherwell Bomb widows Mrs Pearl Faku and Mrs Doreen Mgoduka described his evidence as "much better" than Niewoudt's They said they appreciated De Kock's apology, and would be willing to meet him to allow him to express his apology personally

"He expressed sympathy and apologised We have been sitting here the whole week and Niewoudt hasn't even looked at us," Faku said. "I think his apology is from the bottom of his heart"

Mr Martin Tlan Mapipa, whose son Desmond Mapipa was also killed in the blast, said "De Kock is a better person than Niewoudt, he seems to be more honest"

Mapipa said Niewoudt's evidence that his son was being turned into an ANC supporter was nonsense "It is total lies He was a policeman and he hated the ANC That was his job"

TRC receives 98 amnesty applications

(252)
cometan 2/10/97

AWB leader Eugene Terre'Blanche among those making last-minute applications

By Simon Zwane

FOURTEEN members of the Inkatha Freedom Party (IFP) and two members of the Civil Cooperation Bureau (CCB) were among the 98 people who have taken advantage of the 30-day extension of the amnesty deadline.

The Truth and Reconciliation Commission (TRC) said yesterday that 72 applications were received on Tuesday – the last day of the extended period.

The IFP applications, which have been described as the party's highest since the TRC began, came a day before a convicted member of the party, Vusi Hlengwa, was denied amnesty in respect of five offences committed in KwaMakhutha, south of Durban, during April 1990.

The amnesty committee said it could not find a political motive for the offences committed by Hlengwa.

Only three rightwingers, including Afrikaner Weerstandsbeweging leader Eugene TerreBlanche, lodged their applications during the extended period.

A member of the Orde Boerevolk and one from the Conservative Party were the other

two rightwingers who applied. The TRC refused to divulge their names.

TRC spokeswoman Ms Chistelle Terreblanche said the IFP applications were the most received from the party.

The IFP has refused to cooperate with the TRC and a planned hearing focusing on human rights violations of the party's members was called off earlier this year because of lack of participation from party members.

Summoned

Head of the party's self-protection units Mr Philip Powell has been summoned to appear at the commission's *in-camera* hearing later this month.

Powell's inquiry, set to take place in Durban, was originally planned for September 29 but was postponed.

Other applications have come from the African National Congress (90), the security police (24) and seven from the Pan Africanist Congress.

In their findings on Hlengwa's amnesty application, Judge Hassen Mall, Advocate Chris de Jager and Advocate Ntsiki Sandi said his crimes "were not even remotely related to any political objective".

DP's 'shoddy report' dismissed

(252) (~~31111~~) (~~278~~)

PRETORIA: The National Youth Commission (NYC) yesterday dismissed a DP report calling for its demise as a meaningless document which had been "shoddily cobbled together"

"If any other statutory organ had produced a research document as shoddily cobbled together and factually inaccurate as the section on the NYC clearly is, it would have been vilified," spokesperson Mr Paul Johnson said

The report, released by the DP on Tuesday, listed seven statutory bodies which it said needed closer examination. Serious questions had to be asked about their cost to the taxpayer, DP spokesperson Mr James Selfe had said

He had called for the scrapping of the NYC, saying its functions should be transferred to the office of Deputy President Thabo Mbeki

Johnson said the DP's assertion that NYC chairperson Ms Mahlunge Bhengu was earning a salary of R350 000 a year

showed what he called a fundamental misunderstanding of the pay scales.

"The salary component (of Bhengu) starts at R191 712 per annum. The gross package, assuming all benefits, allowances and schemes are activated, works out roughly to R350 000"

Reacting to the DP's criticism that Bhengu was 26 years old and inexperienced, Johnson said: "They have her age wrong. She is in fact 27"

He added: "It is surprising that the DP of all parties should raise this in relation to the principled issue of levels of public service remuneration"

Commission members, Johnson said, received a basic annual salary of R163 000, the same as a director in the public service. "I assume the amount of R276 000 the DP gave is what it will come to if you activate all benefits"

The NYC had only one office, he said, "not seven. The DP had failed to distinguish between the NYC and

provincial youth commissions

They had also been incorrect in putting the NYC's annual budget at R10 million. It was R6,9m

Complaints by the DP that the body had failed to come up with a single youth development strategy were also ill-informed, Johnson said

"These projects are not of the nature that they can be launched almost as soon as they are conceptualised. They require long-term, meticulous planning, preparation and canvassing"

Johnson, communication director, said the NYC had a staff complement of 21, but not all posts had been filled. He was, for example, awaiting applications for the position of his deputy

Asked about the need for this, he said: "In my area you can argue that if they pay me double, I can do everything. But for what they pay me, I am not going to do more than what I am doing" — Sapa

CT 2/10/97

De Kock lashes out at generals

Star 2/10/97 (252)

I want to expose the people who gave the actual orders, killer tells TRC hearing

SABA
Port Elizabeth

Jailed former Vlakplaas commander Eugene de Kock yesterday accused South Africa's apartheid generals of deserting their foot-soldiers in the face of the Truth and Reconciliation Commission and criminal probes into illegal security force operations.

"I am disillusioned. One would have expected they would have had the integrity and the backbone to stand up and take responsibility," De Kock told the TRC's amnesty committee in Port Elizabeth.

"I believed there was integrity and moral fibre in the top structure, but it seems I was wrong."

He said that when he was on trial in 1994 he received a message from a general.

"(It said) the generals had distanced themselves from me. They said they did not know anything. It did not make me bitter, it made me nauseous. It was complete treason," he said to applause in Port Elizabeth's Centenary Hall.

De Kock is one of nine former security policemen seeking amnesty for the December 1989 Motherwell bomb blast that killed three black security

policemen and an informer.

De Kock's co-applicants for amnesty are Colonel Gideon Nieuwoudt, General Nic van Rensburg, Major Gerhard Lotz, Brigadier Wal du Toit, Lieutenant-Colonel Kobus Kok and former Vlakplaas operatives Major Martinus Ras, Lionel Snyman and Snor Vermeulen. Nieuwoudt, Du Toit and Ras were sentenced to 20, 15 and 10 years in jail respectively for the blast that killed Warrant-Officer Glen Mgoduka, Constable

Desertion of footsoldiers 'complete treason'

Desmond Mapupa, Sergeant Amos Faku and informer Charles Jack.

De Kock told the hearing "I want to put all the facts on the table and expose the people who gave the actual orders

"Many of those who gave the orders never had the experience of pulling the trigger. It is very easy to say to someone to pull the trigger, but to do it yourself is a very different matter."

He had decided to testify as a State witness in the bombing

trial after reading in the newspapers that the Motherwell accused were denying involvement in the murders.

He was finally prompted to take action when he read of Van Rensburg's successful High Court application last year, interdicting the TRC from hearing evidence implicating him in gross human-rights abuses.

"It was another case of (the generals) running away. It was time for them to answer for their deeds."

De Kock said he found it bizarre that several of his co-applicants chose to blame the late Brigadier Fanie Gilbert, then the divisional security police commander in the Eastern Cape, for ordering the bombing.

"Here it seems only the deceased are giving orders. It's just bizarre."

De Kock's testimony on the planning of the bombing directly contradicted the earlier evidence of Van Rensburg and Nieuwoudt, who said the four victims were killed because they were suspected of leaking secrets to the ANC.

De Kock said Nieuwoudt had told him that two security policemen and an informer were suspected of intercepting cheques posted to

left-wing organisations. De Kock questioned the need to kill the policemen simply because they were involved in fraudulent activities.

"That is when Van Rensburg told me the Gonwe case was involved."

De Kock said he was already aware that the security police had been involved in the murders of United Democratic Front activist Matthew Gonwe and three colleagues in 1985.

"We realised it was an ex-

Evidence on Motherwell bombing contradicted

tremely high-profile matter and could be extremely damaging to the security police if it were to leak out."

He subsequently ordered Vlakplaas operatives Ras, Snyman and Vermeulen to assist in the operation.

Asked if he took responsibility for their actions, he said "I take full responsibility from me downwards, especially for the behaviour of my men, but not from me to the top level. Not anymore."

Only one ex-minister seeks amnesty

(252) Star 2/10/97

Cape Town - Only one apartheid-era cabinet minister had applied for amnesty for human rights crimes before the deadline expired at midnight on Tuesday, the deputy head of the Truth and Reconciliation Commission said yesterday.

Alex Boraine said members of the commission chaired by Archbishop Desmond Tutu were disappointed that more leaders of the apartheid government and security forces had not come forward.

"I think it would have been helpful for the health of the country if some more former cabinet ministers, and former leaders of the South African Defence Force in particular, had applied," he said, adding that only one minister had applied.



Subpoenaed .. P W Botha

Boraine did not name him, but former police minister Adrian Vlok has said he intended to ask the commission for indemnity from prosecution.

Boraine said "significant" figures had applied for amnesty in the 24 hours before the

Tuesday midnight cutoff.

"It's really not possible to release the names now, but I think they will give us information on serious matters of murder and assassination over a long period. I think this is going to assist us very much in our work."

The two surviving apartheid-era presidents, P W Botha and F W de Klerk, have both said they do not intend to seek amnesty because they believe they did not commit any crimes during their tenure.

The commission said it had issued a subpoena forcing Botha to testify about the State Security Council.

More than 7 000 people from across the political spectrum have applied for amnesty to the commission. - Reuters

Mbeki, 24 other top ANC figures apply to TRC

STAR REPORTER

Deputy President Thabo Mbeki is one of the 25 senior ANC figures who have applied to the Truth and Reconciliation Commission for amnesty.

ANC spokesman Ronnie Mamoepa today confirmed that 25 senior party figures had submitted amnesty applications to the truth commission.

The ministers are Joe Modise, defence, Steve Tshwete, sport and recreation, and Transport Minister Mac Maharaj. Also included are Deputy Minister of Defence Ronnie Kasriri, Deputy Foreign Minister Aziz Pahad, Deputy Environment Minister Peter Mokoaba and Deputy Intelligence Minister Joe Nhleho.

Gauteng premier Tokyo Sexwale, Mpumalanga premier Mathews Phosa and Northern Province premier Ngoako Ramatlhodi are also seeking amnesty as are ANC national chairman Jacob Zuma, presi-

dential spokesman Joel Netshitenze and SA ambassadors Josiah Jele (UN), Ruth Mompati (Switzerland) and John Nkadimeng (Cuba).

The applications were made for acts committed during the liberation struggle.

Saga reports former Vlakplaas commander Eugene de Kock has disclosed a biography on his life was being written. Any profits would be used to establish a trust fund for the families of apartheid victims

Eugene de Kock and his security police peers

BD 2/10/97

PORT ELIZABETH — Former Vlakplaas commander Eugene de Kock gave evidence at the TRC amnesty committee hearing in Port Elizabeth yesterday on the 1989 car bomb murder of three colleagues and an informer at Motherwell, outside Port Elizabeth, that was at odds with that of his former security police cronies.

De Kock said there was no political motive for the killings. The men were killed for defrauding a security police fraud scheme involving intercepting cheques mailed to anti-apartheid organisations.

In the afternoon, however, some of his eight fellow amnesty applicants, who were told the men were ANC double agents, disagreed with his evidence.

Former police technical division head

Wybrand du Toit said he had been instructed by De Kock "to help sort out the problem in Port Elizabeth". He said he did not tell his superiors of the planned bombing and a secret trip to Port Elizabeth he made with a colleague, applicant Jacobus Kok, to plant the device. Kok, his junior officer, said Col du Toit called him at the time and said there was an important operation involving askaris about to join the ANC.

Last year Du Toit was sentenced to 15 years in prison, along with applicants Gideon Nieuwoudt and Martinus Ras, for his role in the bombing.

Kok said "I trust Wal du Toit and I am convinced he would not have given the instruction without head office authority". Du Toit was "just a link in the chain" who did

not plan the operation

Former Vlakplaas operative Ras, sentenced to 12 years for the bombing, said Nieuwoudt told him, while they were driving to Port Elizabeth shortly before the killings, that two of the men about to be killed had been involved in fraud and were about to be charged. Nieuwoudt, sentenced to 20 years for the bombing, had said the other two victims had been involved in the murders of the Cradock Four.

Ras said Nieuwoudt, who yesterday admitted to personally activating the bomb, had also mentioned that the men were about to defect to the ANC.

De Kock said his fellow applicants, particularly Gen Nic van Rensburg, did not have the "backbone" to accept responsibility

for the killings

De Kock said the reason he was given for the killing of the men was that they had committed fraud and that if the information was leaked it would cause "high-profile damage" to the security police.

He said "I believe it would have led to the destruction of the security forces". During this morning's testimony De Kock contradicted earlier evidence by the amnesty applicants that there had been a political motive for the killings of the men. He said during an early morning meeting in Pretoria with Nieuwoudt and Nic van Rensburg, at the general's house, two days before the blast, fraud was the only reason given for killing the "unarmed policemen". De Kock said that when help was re-

quested by Nieuwoudt from Vlakplaas the

unit was under investigation by the Harms Commission "which was not just an attack on Vlakplaas but the whole security police".

"I agreed to help (kill the men) on Van Rensburg's instruction and had no problem with this", De Kock said that because of the Harms Commission, he and other Vlakplaas members were on suspension at the time but on full salaries and perks and working on dirty tricks.

Outlining his motivation for testifying at the amnesty application, De Kock said he took "full responsibility for the behaviour of all my men from me down".

But he refused to accept responsibility for the top-level structures now denying knowledge of the killings — ECN, Sapa

disagree

Mbeki and ministers apply for amnesty

BD 2/10/97 (252)

Jacob Dlamini

CAPE TOWN — The list of African National Congress leaders who have applied for amnesty includes Deputy President Thabo Mbeki, three cabinet ministers, four deputy ministers, three provincial premiers, a presidential spokesman and three ambassadors

The ANC yesterday supplied a list of 25 names of senior party figures who had submitted amnesty pleas to the truth commission. Nineteen were among the 99 applications submitted during the month-long "special window period" which ended on Tuesday. No details were provided of the acts for which they were seeking amnesty.

The ministers are Defence Minister

Joe Modise, Sport and Recreation Minister Steve Tshwete and Transport Minister Mac Maharaj. Modise's deputy, Ronnie Kasrils, Deputy Foreign Minister Aziz Pahad, Deputy Environment Minister Peter Mokaba and Deputy Intelligence Minister Joe Nhlanhla are also applicants.

Gauteng premier Tokyo Sexwale, Mpumalanga premier Mathews Phosa and Northern Province premier Ngoako Ramatlhodi are also seeking amnesty, as are ANC national chairman Jacob Zuma and presidential spokesman Joel Netshitenzhe, and SA ambassadors Josiah Jele (to the United Nations), Ruth Mompathi (Switzerland) and John Nkadimeng (Cuba).

Other ANC applicants included

three major-generals in the SA National Defence Force — Jackie Sedibe, Andrew Masondo and Lambert Molo — gender commission head Thenjwe Mthintso and MPs Janet Love, Wally Serote and Gertrude Shope.

Truth commission spokesman Christelle Terreblanche said among the last-minute applications were 24 from the former security forces. Fourteen were from the Inkatha Freedom Party, seven from the Pan Africanist Congress, while the Afrikaner Weerstandsbeweging, Orde Boerevolk, Azanian People's Organisation, Conservative Party and the Azanian National Liberation Army each submitted one

See Page 2

Barnard has not sought amnesty for Webster killing

(252)
Stephané Bothma
BD 21/10/97

PRETORIA — Former Civil Co-operation Bureau (CCB) operative Ferdi Barnard has not applied for amnesty for the murder of Wits university lecturer David Webster.

He has, however, applied for amnesty for the attempted murder of Justice Minister Dullah Omar, for hanging a monkey foetus outside the home of truth commission chairman Archbishop Desmond Tutu and for conspiracy to murder Eastern Cape activist Bruce White, truth commission sources said yesterday.

Barnard faces 24 criminal charges including the assassination of Webster. He was arrested last month on murder, fraud and conspiracy to murder charges.

The former policeman, who has served a jail term for the murder of two drug dealers in the 1980s, has not applied for bail and his trial is due to start in the Pretoria High Court on February 2 next year. He indicated earlier that he would not apply for amnesty for crimes he did not commit.

According to the state, Webster — an activist with a strong interest in alleged SA Defence Force irregularities — had been under surveillance by Barnard, then a member of the defence force's covert CCB unit, for a while before the murder.

Webster was killed by a shotgun blast outside his Troyeville home on May 1, 1989. A fellow CCB operative, Calla Botha, allegedly drove the car from which Webster was shot.

Meanwhile, the Transvaal attorney-general's office confirmed yesterday that a witness had pointed investigators in the direction of the Webster murder weapon. However, after a dam near Nylstroom, where the shotgun was allegedly disposed of, was searched, it was discovered that a civilian had discovered the weapon earlier in the mud in the dam.

The civilian had taken the weapon to a nearby police station where it was handed in. When the weapon was not claimed, it was destroyed by the police.

Eugene de Kock and his security police peers disagree

PORT ELIZABETH — Former Vlakplaas commander Eugene de Kock gave evidence at the TRC amnesty committee hearing in Port Elizabeth yesterday on the 1989 car bomb murder of three colleagues and a former at Motherwell, outside Port Elizabeth, that was at odds with that of his former security police cronies.

De Kock said there was no political motive for the killings. The men were killed for defrauding a security police fraud scheme involving intercepting cheques mailed to anti-apartheid organisations.

In the afternoon, however, some of his eight fellow amnesty applicants, who were told the men were ANC double agents, disagreed with his evidence.

Former police technical division head

Wybrand du Toit said he had been instructed by De Kock "to help sort out the problem in Port Elizabeth". He said he did not tell his superiors of the planned bombing and a secret trip to Port Elizabeth he made with a colleague, applicant Jacobus Kok, to plant the device. Kok, his junior officer, said Col du Toit called him at the time and said there was an important operation involving askaris about to join the ANC.

Last year Du Toit was sentenced to 15 years in prison, along with applicants Gideon Neuwoudt and Martinus Ras, for his role in the bombing.

Kok said "I trust Wal du Toit and I am convinced he would not have given the instruction without head office authority." Du Toit was "just a link in the chain" who did

not plan the operation.

Former Vlakplaas operative Ras, sentenced to 12 years for the bombing, said Neuwoudt told him, while they were driving to Port Elizabeth shortly before the killings, that two of the men about to be killed had been involved in fraud and were about to be charged. Neuwoudt, sentenced to 20 years for the bombing, had said the other two victims had been involved in the murders of the Cradock Four.

Ras said Neuwoudt, who yesterday admitted to personally activating the bomb, had also mentioned that the men were about to defect to the ANC.

De Kock said his fellow applicants, particularly Gen Nic van Rensburg, did not have the "backbone" to accept responsibility

for the killings.

De Kock said the reason he was given for the killing of the men was that they had committed fraud and that if the information was leaked it would cause "high-profile damage" to the security police.

He said "I believe it would have led to the destruction of the security forces." During this morning's testimony De Kock contradicted earlier evidence by the amnesty applicants that there had been a political motive for the killings of the men. He said during an early morning meeting in Pretoria with Neuwoudt and Nic van Rensburg, at the general's house, two days before the blast, fraud was the only reason given for killing the "unarmed policemen".

De Kock said that when help was re-

quested by Neuwoudt from Vlakplaas the unit was under investigation by the Hamm Commission "which was not just an attack on Vlakplaas but the whole security police".

"I agreed to help (kill the men) on Van Rensburg's instruction and had no problem with this," De Kock said that because of the Hamm Commission, he and other Vlakplaas members were on suspension at the time but on full salaries and perks and working on dirty tricks.

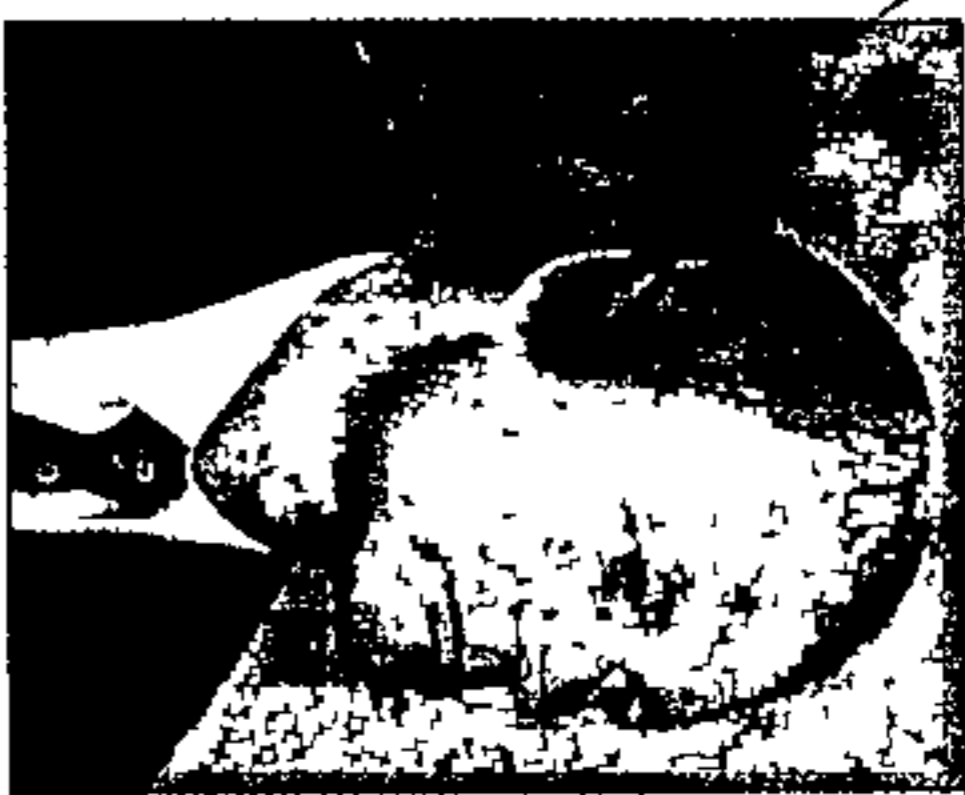
Outlining his motivation for testifying at the amnesty application, De Kock said he took "full responsibility for the behaviour of all my men from me down".

But he refused to accept responsibility for the top-level structures now denying knowledge of the killings — ECN, Sapa

8D 8/10/97

(252)

SEARCHED INDEXED SERIALIZED FILED



NP left bomber out in the cold

Port Elizabeth - A security police brigadier convicted of the 1989 Motherwell car-bombing murders says he was enraged at being abandoned by the National Party government after loyal service.

Wybrand du Toit, who served in the security police technical division at the time, told the Truth Commission's amnesty committee yesterday that he and a colleague, Jacobus Kok, went to Port Elizabeth from Pretoria to booby-trap the car.

He was arrested in 1995 and charged with murdering three black security policemen and an informer with the bomb. Although he had been offered indemnity if he turned state witness, Du Toit said, he had been unable to accept the offer.

He felt he would be letting down the security police and government. He was subsequently convicted and sentenced to 15 years in jail. He is on bail of R50 000 pending an appeal.

The morning after his sentencing, he said, he read a report quoting Terrius Delport, then National Party minister of local government, as saying he was pleased with the outcome of the trial and agreed with the sentences imposed. "An anger welled up in me that I can't describe," Du Toit said. "I realised that the system I had served so loyally and beyond the call of duty had finally deserted me."

Police generals betrayed me - De Kock

Ex-Vlakplaas commander hits out at his former superiors

Port Elizabeth - Former Vlakplaas commander and murderer Eugene de Kock didn't mince words when he told the Truth Commission how deeply he felt betrayed by the apartheid government and its police generals.

The generals ran away - "literally" - from their responsibilities towards their men when details of covert operations and hit squad activities at Vlakplaas started emerging in the late 1980s and through the Harms Commission, De Kock charged.

"Vlakplaas was taking the whole blame. They knew they were loading all the blame on to Vlakplaas."

"I accept full responsibility from myself down for all my men's actions. But I do not accept responsibility from me upwards - at least, not now. I assumed that at head office there was moral fibre and integrity. It seems I was wrong," he said.

De Kock was testifying yesterday as one of nine former security policemen applying for amnesty for murdering three black colleagues and an informer in a car bomb explosion at Motherwell in 1989.

He told the commission he was sent on paid "leave" at the time of the initial Harms Commission investiga-



ON THE TRUTH COMMISSION

tions in late 1989 to mislead the public into thinking activities at Vlakplaas had ceased.

But he was still going to police headquarters in Pretoria each day and was "recalled" from leave to accept orders from his superior, Nic van Rensburg, to send some of his Vlakplaas men to Port Elizabeth to help with the Motherwell operation.

De Kock also disclosed that at the time of the Harms Commission he was instructed to kill a fellow policeman who was threatening to reveal everything to the commission.

"That is the subject of another amnesty application," he said.

There were two more occasions when he was asked to kill former colleagues, but he had refused both times.

"Many of those who gave these

orders had never had the experience of pulling the trigger," De Kock said.

"To do it yourself is a very different matter. It's very difficult to go home afterwards and lead a normal social life. It's a battle."

Responding to a question from amnesty committee chairman Judge Bernard Ngoepe, De Kock described the conflict between the security forces and the liberation movements.

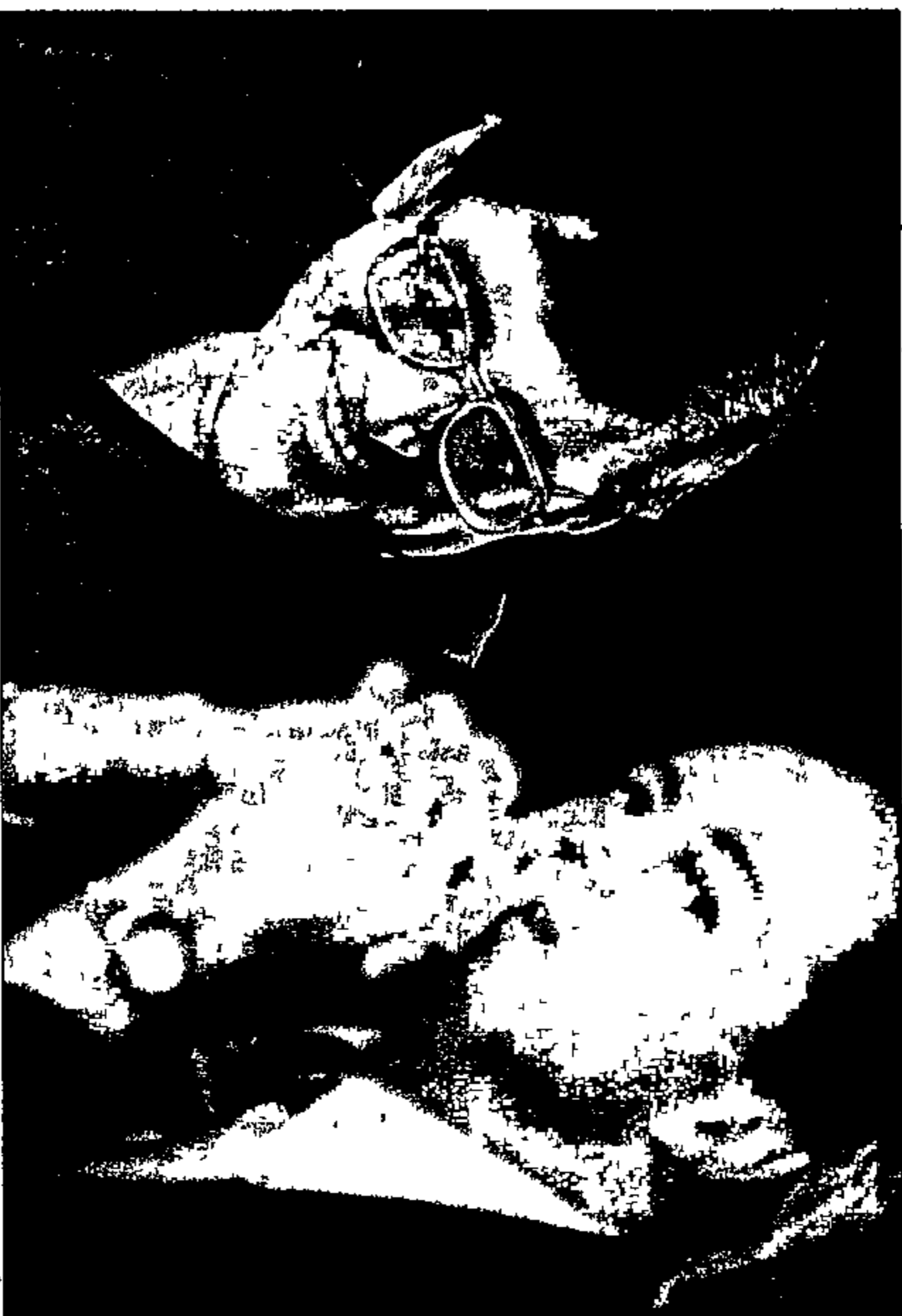
"That was a world in which there were a thousand hues of grey. There was just fog, cloud," he said.

He said politicians must have been aware of what was happening. The then Minister of Law and Order Adriaan Vlok had visited Vlakplaas two or three times.

On one occasion Mr Vlok went to Vlakplaas specifically to thank the operatives of CI (De Kock's counter-insurgency unit) and the security police's technical division and to congratulate them on certain operations, including blowing up Khotsiso House, headquarters of the SA Council of Churches.

"And I'll never forget what he said. 'We, the Afrikaners, will never surrender in a thousand years'."

"Something similar was said in Germany in 1944," De Kock told the commission.



PE car bomb victims died instantly in 'a massive fireball'

Port Elizabeth - There is one small consolation for the families of the four Motherwell car bomb victims: the victims died instantly.

The men drove their car only about 100 metres before it exploded in a fireball, the Truth Commission's amnesty committee heard from some of the nine former security policemen who are applying for amnesty for the killings.

The car was packed with commercial dynamite and plastic explosive used for military purposes. About a kilogram of dynamite was placed under each of the front seats and another two to four kilograms under the back seats.

The plastic explosive was placed under each of the four floor mats and all the explosives were connected with cordite.

A radio receiver was hidden in the boot under a mat and connected to the explosives with electrical wires to which detonators were attached.

The unsuspecting victims were injured to the tender point - a deserted road outside Port Elizabeth - on the pretext that they had to keep a house used by a suspected terrorist under surveillance and needed to use a different car because their police minibus was too well known.

"They arrived in the minibus, switched to the booby-trapped car and drove off."

"(We) immediately ran closer to see what had happened, and Deon Nieuwoudt was already on the scene when we arrived.

"Burning bits and pieces were lying everywhere. I almost fell over a piece of a person lying in the road. It looked as though it could have been a person's backbone.

"I immediately realised that there was no chance of anyone having survived the blast."

ANC spokesman Ronnie Mamoona today confirmed that the 25 included Defence Minister Joe Modise, Sport and Recreation Minister Steve Tshwete, Transport Minister Mac Maharaj and Deputy Defence Minister Ronnie Kasrils. Most ANC applicants had made their submissions during the last month.

Mbeki seeks amnesty

Deputy President Thabo Mbeki is one of the 25 senior African National Congress figures who have applied to the Truth and Reconciliation Commission for amnesty.

ANC spokesman Ronnie Mamoona today confirmed that the 25 included Defence Minister Joe Modise, Sport and Recreation Minister Steve Tshwete, Transport Minister Mac Maharaj and Deputy Defence Minister Ronnie Kasrils. Most ANC applicants had made their submissions during the last month.

We're not lazy, say commissions

CLIVE SAWYER
POLITICAL COMMENTATOR

A group of Government commissions, targeted by the Democratic Party as wasteful and unproductive, have sprung to life in their own defence.

The DP this week released a report naming seven commissions as having cost a combined R286-million in the past two years while doing little or nothing to justify the huge cost

The party recommended abolishing three the Volkstaat Council, which the DP said had cost about R10-million while there was little chance there would ever be a volkstaat, the Gender Commission, which had produced little of value and could be merged with the Human Rights Commission,

and the Youth Commission, a costly body with a highly-paid chairwoman which it said had also produced no results

The DP also recommended standardising salary packages and criminalising the abuse of public office

The Gender Commission said the DP's recommendation that it be scrapped and absorbed into the Human Rights Commission was based on scanty evidence of the Gender Commission's role and performance

It also accused the DP of lying by saying that the party had not been able to speak to anyone at the commission

The Youth Commission contested DP claims about the commission's budget, saying that it was in fact R6,9-million and not

R10-million. The commission added that chairwoman Mahlinge Bhengu received a total package of about R276 000, rather than this being her salary.

Sapa reports that Youth Commission spokesman Paul Johnson said complaints by the DP that the commission had not come up with a youth development strategy were also ill-informed.

"These projects are not of the nature they can be launched almost as soon as they are conceptualised," he said

"They require long-term, meticulous planning, preparation and canvassing"

Corne Mulder of the Freedom Front said the DP had declared itself to be an enemy of Afrikaners by its demand for the abolition of the Volkstaat Council

AACT 3/10/97

(252)

(~~26119~~)

ANC bosses rush to beat amnesty deadline

BY ROBERT BRAND

Members of the ANC's special operations unit, which was responsible for apartheid-era attacks such as the Church Street bomb, feature prominently on a list of senior ANC members who have applied for amnesty

ANC spokesman Ronnie Mamoepa confirmed yesterday that Deputy President Thabo Mbeki, three cabinet ministers and three provincial premiers were among those who handed in amnesty applications before the Tuesday deadline.

ANC Women's League president Winnie Madikizela-Mandela is not among them.

The applications are "in keeping with the principle of collective responsibility for acts and conduct committed in the course of the just war against the system of apartheid within the framework of ANC policy," Mam-



Applied ... Thabo Mbeki.

oepa said.

The list includes former members of the ANC department of intelligence and security - accused of responsibility for atrocities committed in ANC training and detention camps in neighbouring states - as well as high-ranking former members of Umkhonto weSizwe

Among those who have

applied is Defence Minister Joe Modise, commander-in-chief of MK during the 1980s when the MK Special Operations Unit mounted sabotage attacks on installations such as Sasol and Koeberg.

Members of the unit were also responsible for several bombings, including the 1983 Church Street bomb in Pretoria and the 1985 Magoo's Bar bomb in Durban.

Aboobaker Ismail, who headed the unit for several years, is among the list of applicants, as are other high-ranking former MK commanders such as Lambert Moloi, now a major-general in the SANDF.

Others on the list are Transport Minister Mac Maharaj, ANC KwaZulu Natal leader Jacob Zuma, Gender Commission chairman Thenjiwe Mtintso, Presidential communications director Joel Netshitenzhe and MPs Wally Serote and Janet Love.



Applied ... Aziz Pahad.

Also on the list are Mpumalanga premier Mathews Phosa, Gauteng premier Tokyo Sexwale, Deputy Tourism Minister Peter Mokaba, Sport Minister Steve Tshwete, deputy Intelligence Minister Joe Nhlanhla, Northern Province premier Ngoako Ramatlhodi and Deputy Foreign Minister Aziz Pahad.

De Kock meets widows of Motherwell bomb victims

PORT ELIZABETH: Jailed former Vlakplaas commander Eugene de Kock yesterday had a private meeting with the widows of two of the victims of the 1989 Motherwell bomb blast that killed three policemen and a police informer

The unpublicised meeting took place in a room at Port Elizabeth's Centenary Hall, where De Kock and eight other former security policemen are applying for amnesty for the bombing

The widows of Warrant Officer Glen Mgoduka and Sergeant Amos Faku briefly met the former hit-squad commander before his return to prison

What transpired is not known, with lawyers for the families initially refusing to confirm that it even took place

"The meeting with De Kock is a private matter and (the widows) do not wish to elaborate," attorney Mr Steve Gough said

De Kock, who has admitted to helping plan the murders, had asked to meet the families "I have an understanding of their pain and needs," he told the amnesty committee on Wednesday

"I understand the pain they have in los-

ing their (loved ones) because I am in a similar situation, although not quite as dramatic"

The amnesty committee heard this week that Mgoduka, Faku and two colleagues were murdered to prevent them from leaking details of security police intelligence operations to the ANC

There were also fears that they would expose security police involvement in the 1985 murders of United Democratic Front activist Matthew Goniwe and three others

The victims' unmarked police car was destroyed in an explosion near Motherwell township in Port Elizabeth on December 14, 1989

Earlier yesterday, former Vlakplaas operative Daniel Snyman testified that security force generals had plotted to kill De Kock during the Harms Commission's investigation into state involvement in violence

Snyman said a source overheard a group of generals discussing De Kock's elimination. He refused to identify his source, saying he feared for the person's life — Sapa



Pardon: ANC top brass apply

MEMBERS of the ANC's special operations unit, who were responsible for apartheid-era attacks such as the Church Street bomb, feature prominently in a list of senior ANC members who have applied for amnesty

ANC spokesperson Mr Ronnie Mamoepa confirmed that Deputy President Thabo Mbeki, three cabinet ministers and three provincial premiers were among those who handed in amnesty applications before the final deadline on Tuesday

Defence Minister Mr Joe Modise, commander-in-chief of MK during the 1980s when the MK Special Operations Unit mounted sabotage attacks on installations such as Sasol and Koeberg, also applied.

The unit was also responsible for the 1983 Church Street bomb in Pretoria and the 1985 Magoo's Bar bomb in Durban

Mr Rashid Abu-Baker, who headed the

unit for several years, is on the list, as is former MK commander Lambert Moloi, now a major-general in the SANDF

Others on the list are Transport Minister Mac Maharaj, ANC KwaZulu-Natal leader Mr Jacob Zuma, Gender Commission chairperson Ms Thenjiwe Mtintso, presidential communications director Mr Joel Netshitenzhe, MPs Dr Wally Serote and Ms Janet Love, Mpumalanga Premier Mr Mathews Phosa, Gauteng Premier Mr Tokyo Sexwale, Deputy Tourism Minister Mr Peter Mokaba, Sport Minister Mr Steve Tshwete, Deputy Intelligence Minister Mr Joe Nhlanhla, Northern Province Premier Mr Ngoako Ramatlodi and Deputy Foreign Minister Mr Aziz Pahad

Mamoepa said the list was not exhaustive as some ANC members had applied individually — Own Correspondent

Legal aid awaits grant as financial crisis looms

(252)

CT 3/10/97

OWN CORRESPONDENT

PRETORIA The Legal Aid Board will hear in a fortnight whether it will be granted R305 million from the Department of Justice to ward off a crisis with lawyers, who are owed millions of rands in fees

According to a board source, the cash-strapped board, which received a budget of R156,5m this year, is awaiting R35m from the justice department — which it applied for to cover the cost of extra constitutional cases

It was reported in July that funds allocated to the board, which provides state-funded legal representation to people who cannot afford it, was in danger of running dry

Despite a memorandum from the board to the justice department requesting R200 million, and warning of the pending crisis, no funds were allocated

The R305m the board hopes to receive includes the R35m and R200m.

There are about 17 000 unpaid claims, some dating back more than four years, which total about R20m

This week, Richards Bay attorney Mr Robbie Dalton, in an unprecedented action, asked for a probe into the finances of the

board

Dalton said he was not prepared to continue acting for his two clients because his outstanding fee totalled R40 000. The magistrate ordered that the state arrange remuneration for him within two weeks

The board also received warnings from 17 Western Cape attorneys that they would no longer take cases until their arrears, some dating back to 1992, were paid

Mr Paul Setsetse, spokesman for Justice Minister Dullah Omar, said the department was aware of the fact that the board needed funding.

He said a memorandum was being prepared by the justice department for the treasury committee, which will decide on additional funding on October 14

A legal forum on the Legal Aid Board will also take place before the end of this year, Setsetse said, where the possible restructuring of the board would be discussed with all stakeholders

The financial dilemma facing the board has been attributed to a budget shortfall of R243,5m, as the original request by the board for a budget of R400m was denied

As the right to legal representation is entrenched in the Constitution, it has caused a bottomless pit of government spending to ensure that any accused is provided with state legal assistance and to avoid an injustice, said a board member, who did not wish to be named

Mr Piet Langenhoven, president of the Transvaal Law Society and a director of the board, said his society was not experiencing the same problems as in KwaZulu-Natal.

He said he had received a few account queries from lawyers, but these were "usually sorted out".

"There is no doubt that people still needing legal aid will be provided with it," said Langenhoven. He said cost-saving measures were being looked at

Another board member said the board was completely mismanaged but there were signs of progress, while another said it would be best if the board was scrapped and started over as there was a lack of proper systems

Legal Aid Board director Nick Pretorius could not be reached for comment last night

*The dilemma
... is attributed
to a budget
shortfall of
R 243,5m.*

Inkatha 'hit squad' trainer gets amnesty

(2529) Star 3/10/97

By ROBERT BRAND

A former military intelligence officer has been granted amnesty by the Truth and Reconciliation Commission for his part in the military training of Inkatha members in the Caprivi Strip during the 1980s.

Jan Anton Nieuwoudt, a former lieutenant-colonel in the SADF's military intelligence wing, was also a member of the Directorate of Covert Collection (DCC), responsible for secret actions against opponents of the government in the 1980s.

In his amnesty application, Nieuwoudt (41) stated that the aim of training about 200 recruits at Hippo Base in the Caprivi Strip in Namibia in 1986 was to enable Inkatha "to attack the ANC and UDF effectively inside KwaZulu Natal" in order to "neutralise" the liberation movements.

The training lasted a month and equipped trainees for information gathering, interrogation, target development and infiltration, Nieuwoudt said.

Details of the training were revealed during a special TRC hearing on the Caprivi trainees in Durban during August.

Nieuwoudt's testimony, however, differs from the picture painted in the high-profile trial of former defence minister Magnus Malan and others, who were acquitted of murders allegedly committed by Inkatha members who had received training in Caprivi.

The Amnesty Committee made the decision to grant amnesty to Nieuwoudt in chambers. Nieuwoudt's application did not specify offences defined in the law as gross violations of human rights, so no public hearing was necessary, the commission said this week.

Nieuwoudt said he was ordered to carry out the training by former SADF General Tienie Groenewalt, now a Freedom Front Member of Parliament and one of the accused in the Malan trial.

He later joined the DCC to recruit "high-ranking ANC agents", and from mid-1990 worked as head of the Ciskei Information Service, establishing the front company Pan Afrik Industrial Investment Consultancy (PAIIC).

Nieuwoudt won a civil claim against the SADF after they denied knowledge of his involvement in the DCC. He subsequently resigned from the army, in which he had served from 1974.

According to his applica-

tion, the Inkatha recruits were under the impression they were being trained in Israel.

A high premium was placed on secrecy. Nieuwoudt said he was of the opinion that as a result of the training he gave, the recruits were capable of identifying and eliminating ANC targets without leaving clues.

They were trained in foreign weaponry. He assumed, this could have led to loss of life, but did not know of anybody who died specifically at the hands of his trainees.

The application names Colonel Jan Breytenbach as commander of Hippo Base at the time Major Jakes Jacobs commanded the training.

In another ruling, the TRC refused amnesty to an IFP member convicted of murdering a UDF member in revenge for an attack on his house and four other offences.

Vusi Linda Hlengwa committed the offences in the Kwamakhuta area of KwaZulu Natal during April 1990.

He was convicted in March 1994 of the murder of Mahluleli Makhanya, the murder of Beki Patrick Zwane, the attempted murder of Simiso Msomi, pointing a firearm, and being in unlawful possession of a firearm and ammunition.

Hlengwa said he murdered Makhanya in revenge for an attack on his house in an IFP area in April 1990. He was a member of the IFP and, although he did not know the identity of the perpetrators, he decided to kill members or supporters of the UDF.

He was armed with a firearm and an axe and accompanied by his friend, Beki Patrick Zwane. He opened fire in a shebeen, wounded Msomi and killed Makhanya, whom he had identified as a member of the UDF.

A week later he shot and killed his friend Zwane, on the basis that he found out Zwane was an ANC member.

The amnesty panel, headed by Mr Justice Hassen Mall, found that Hlengwa had been driven by "anger and the desire to avenge" rather than a political motive.

Acts committed out of personal malice do not qualify for amnesty.

"While we accept that at the time of the commission of the offences there was evidence of political violence in the area, it does not *ipso facto* follow that all crimes and offences committed during that period were necessarily acts committed with a political objective."

TRC must decide which liar is telling the truth

By JOHN YELD

Were three black security policemen and an informer murdered in a huge car-bomb explosion at Motherwell in 1989 because they were believed to be switching political allegiance to the ANC, and therefore posed a major threat to security police agents and informers? Or was it because two of them were blackmailing some of their white colleagues - by threatening to reveal their involvement in the 1985 murders of the "Craddock Four" activists, unless possible fraud charges against them (the two policemen) for stealing funds destined for opponents of the apartheid state

were hushed up?

These two scenarios are being sketched at the Truth and Reconciliation Commission's amnesty hearing in the New Centenary Hall in Ibayi township, where nine former security policemen are seeking amnesty for the murder of three black colleagues, Warrant Officer Glen Mgoduka, Sergeant Amos Faku and Sergeant Desmond Mapiya, and informer Xolile Sheperd Sakati, known as Charles Jack.

One of the nine policemen, Gideon Nieuwoudt, has been convicted of the murders and is on R50 000 bail pending an appeal against his 20-year jail sentence. Nieuwoudt this week testified that he believed the men had switched, or were in the process of switching, allegiance to the ANC (although some of his evidence was contradictory in this regard).

He said if they were connected to the ANC, it would seriously jeopardise his intelligence network of agents and informers, that some agents had already been killed and captured as a result of leaked information from the men, and that some of his colleagues were at risk because the men were about to plant a limpet mine on a police vehicle as a token of resistance on Heroes' Day, December 16.

Nieuwoudt repeatedly denied there had been another motive for killing the four men, which he claimed had been ordered by his commanding officer, Brigadier Fanie Gilbert, now dead.

He confirmed earlier testimony by General Nic van Rensburg, then in overall charge of the Vlakteplaas unit, who said he (Nieuwoudt) had told him during a briefing before the Motherwell operation that the four to be killed had been involved in the murder of the Craddock Four.

They were threatening to reveal details of this - including the names of the white security policemen involved - to the ANC.

Nieuwoudt also confirmed he was aware that police were considering charges of fraud against Mgoduka and Sakati for allegedly stealing money, sent from overseas sources to local organisations fighting apartheid but intercepted by police.

He agreed with a suggestion by Eric Ford, for the families of Mgoduka and Faku, that the two black policemen would have been able to "blow the whole story" and implicate white policemen like General van Rensburg and his son-in-law, Warrant Officer Gerhardus Lotz, in the Craddock Four murders.

However, he repeatedly denied that the main motive for killing the men had been to silence them regarding the Craddock Four murders and the theft of overseas money.

Amnesty committee member Chris de Jager suggested to Nieuwoudt that the two black policemen were practising "virtual blackmail". "They were saying 'Charge us and we will expose this whole thing' Wasn't this what you feared?" he asked.

Nieuwoudt replied "I did not see it like this at that stage. Gilbert could well have thought that when he took the decision (to kill the men), I don't know".

But former Vlakteplaas commander Eugene de Kock - also one of the nine seeking amnesty for the Motherwell killings - said he found it bizarre that several of his co-accused chose to blame Gilbert for ordering the bombing.

De Kock's testimony on the planning of the bombing contradicted the earlier evidence of Van Rensburg and Nieuwoudt. He said Nieuwoudt had told him two security policemen and an informer were suspected of intercepting cheques posted to trade unions and other left-wing organisations and depositing the money into their own accounts.

No mention was made of a fourth person although Nieuwoudt and Van Rensburg insist all four were legitimate targets in the bombing.

"(Nieuwoudt) said there was a lot of pressure to charge the members and there was the fear that when they were charged they would expose violations and offences which had been committed in the past".

When De Kock met Van Rensburg later that day he questioned the need to kill the policemen simply because they were involved in fraudulent activities.

"That is when he told me the Goniwe case was involved, and many similar cases. The operation was critically important. We realised it was an extremely high-profile matter and could be extremely damaging to the security police if it were to leak out".

He subsequently ordered Vlakteplaas operatives Ras, Snyman and Vermeulen to assist in the operation.

The amnesty committee will have to decide which version of events to accept - and which one of the two equally notorious former security policemen, who are both confessed liars under oath, has come sufficiently close to telling the full truth of the Motherwell bombing incident to qualify for amnesty.

TRC DIARY

Next week

On Monday, the amnesty committee continues its hearing in Port Elizabeth, where it will consider amnesty applications in connection with the murder of Eastern Cape activist Sizwe Kondile. The hearing is in the Centenary Hall, New Brighton.

On Wednesday October 8, a special hearing into the role of armed forces on both sides of the apartheid conflict starts in Cape Town. Several top-ranking officers from the former SADF as well as members of MK and Apla have been subpoenaed to

testify. The hearing will be held at the commission's offices in Adderley Street and is scheduled to continue until Friday.

Coming up

On Monday, October 13, a hearing into the activities of the State Security Council starts in Johannesburg. Several former cabinet ministers have been subpoenaed to testify.

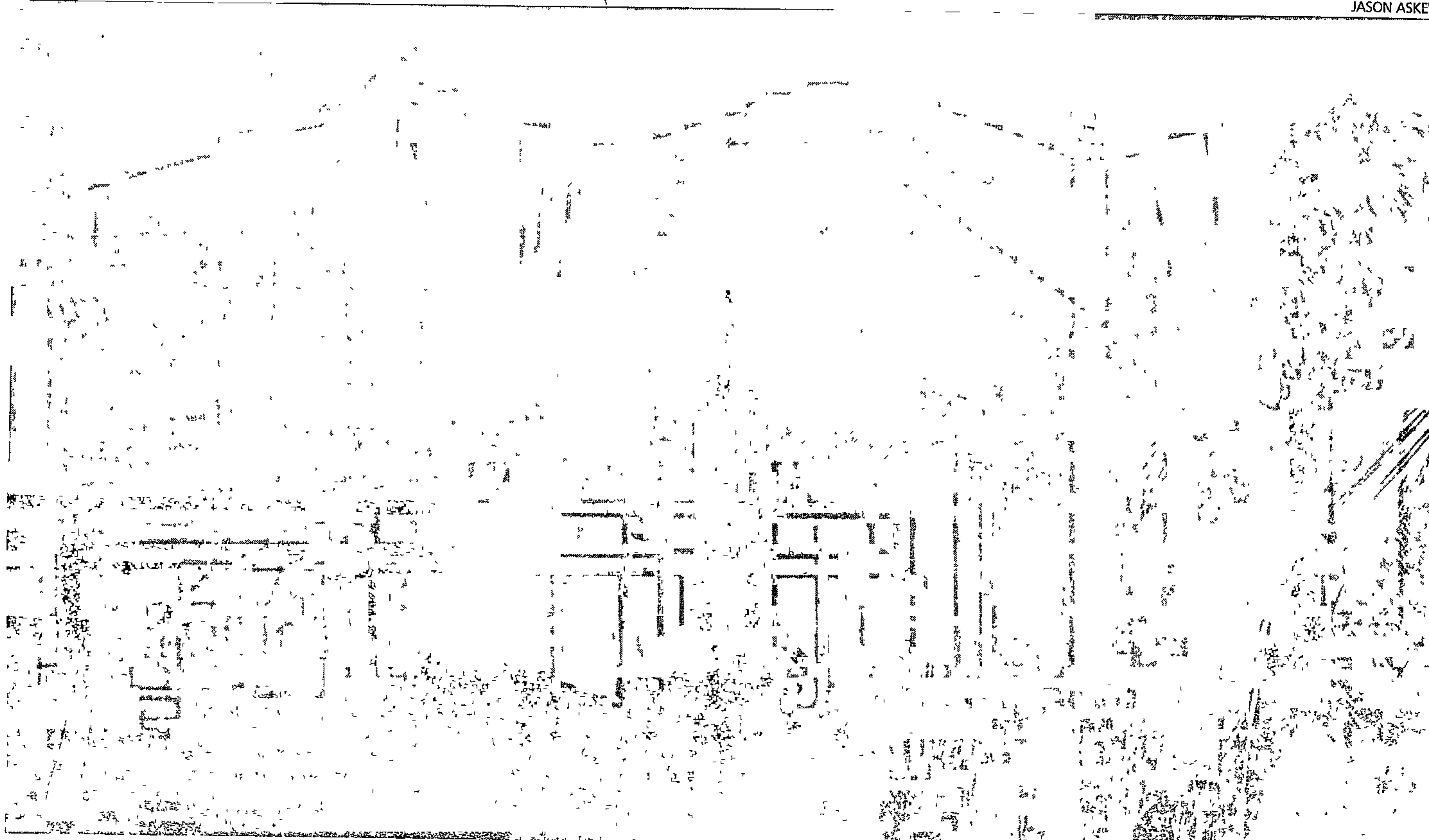
The same week sees the start of an amnesty hearing in Cape Town for police-men involved in the killing of the so-called Gugulethu Seven.

On Monday: Foreign Editor Peter Fabricius interviews Indian Prime Minister Inder Kumar Gujral, due to visit SA next week

INSIDE

On Wednesday: Our weekly news feature looks at the provision of water

JASON ASKEW



Getting down to business

Star 3/10/97

(30) (252)

Most commercial institutions asked by the TRC to take part in a special hearing are coming to the table

REPORT

By ROBERT BRAND

The overwhelming majority of business institutions approached by the Truth and Reconciliation Commission to participate in a special hearing in November have responded positively, TRC member Dr Fazel Randera said this week.

After its hearings into the role of the media and the health profession during apartheid, the commission called on the business and labour sectors to make submissions for a hearing from November 11 to 13.

The hearing will have three broad themes, TRC deputy chairman Dr Alex Boraine has said: the relationship between apartheid and the economy, business, government and trade unions, and the response

of business to the total onslaught theory and reform.

"The hearing is not a witch-hunt. It is not a forum for details of individual human rights abuses, these have been aired at other hearings. It is an attempt to understand past conflicts, to prevent a recurrence of human rights violations, to contribute towards the documentation of South Africa's history and to look ahead."

The commission has approached dozens of business groupings, labour unions and individuals and most have agreed to participate, said Randera.

The only institution which refused point blank to participate was the conservative, mainly white Mineworkers Union (MWU), Randera said.

The MWU said it saw the TRC as a one-sided body, biased

in favour of the ANC, and out to discredit the Afrikaner.

The MWU found it ironic the same people who were upset about apartheid now enthusiastically supported reverse apartheid in the form of affirmative action, said MWU chief secretary Flip Buys.

"This brings their commitment to equality into doubt because their actions can only lead to a new category of disadvantaged people."

Not so, said Randera. "We had a long meeting with the MWU. We tried to explain it is part of our mandate to appeal for submissions from a wide range of bodies. It is about perspectives, they should bring theirs to the hearing."

The SA Agricultural Union (SAAU) said it would not make a submission, but was prepared to answer specific questions

The body was too diverse for it to make a single submission, Randera said.

Deadline for submissions is October 10. The Afrikaanse Handelsinstituut (AHI), the Chamber of Mines, Tongaat-Hulett, Anglo-American, Armscor, the Johannesburg Chamber of Commerce, Cosatu, Nactu and several other unions had agreed to make submissions, Randera said.

Individuals such as Stellenbosch economics Professor Sampie Terreblanche, labour law expert Professor Nic Wiehann and economist Professor Charles Simkins have also agreed to deliver papers.

"What we're asking for is a forward view. These two groupings (business and labour) between them can do more for reconciliation than most others who have appeared before the

commission," Randera said.

Institutions will also be asked for views on how they can become involved in reconciliation and reparations.

"Individuals from the business sector have made an input in the think-tanks of the reparations committee, in the planning of reparations policy. But clearly, there has been little input from business to the President's Fund (the fund set up for reparations for apartheid victims)," Randera said.

"We want these two groups (business and labour) to think about reconciliation, about the role they see for themselves."

The success of the hearing, Randera said, would depend on whether institutions were prepared to acknowledge the roles they played.

"I hope the attitudes which do not come out are, 'there were

laws, we had to function within those laws, and, business is pragmatic, we have to do business and we needed a stable environment to do business.' One would hope more comes out of the hearing, more honesty."

Keeping you informed

Every Friday, The Star will produce a news feature to keep you up to date with the Truth and Reconciliation Commission. The feature, produced by our team of specialist TRC reporters, will provide all the background, the news and the insights you need to keep you in the picture as the dramatic story of our past unfolds.

Crisis looms for legal aid with lawyers owed millions

(252)

Board has applied to justice

ministry for extra funds

SAW 3/10/97

OWN CORRESPONDENT

Durban

The legal-aid system in South Africa is on the brink of ruin, with lawyers who are owed millions of rands in fees threatening not to take on any more cases and the Legal Aid Board indicating it may soon run out of funds

The board, which received a budget this year of just less than R156,5-million, has already paid out about R95-million to attorneys and advocates representing people who cannot afford to pay for legal fees. But unpaid are 17 000 cases - some backdating two years - which total about R20-million.

This week Richards Bay attorney Robbie Dalton brought an unprecedented court application asking for a probe into the finances of the board. Dalton said he was not prepared to continue acting for his two clients because his outstanding fees totalled R40 000. The court ordered that the State arrange remuneration for him within two weeks.

A Durban advocate said yesterday he had been owed about R15 000 for two years and another firm of attorneys said it was owed about R50 000.

"You can wait two or three years and sometimes it never comes. We are sick and tired of it and it's getting to the stage where we are not prepared to do it any more," said one.

Chairman of the Natal Law Society, Frank Sithole, said a professional committee representing attorneys and advocates in the province was negotiating with the board regarding solutions to the problem.

"We have said that we will not take on any of these cases until we get a promise from Pretoria that we will be paid timeously. We have heard that the board's finances are in a mess and that they have asked for another R35-million. But will it be enough?" Sithole said.

Board director Nic Pretorius was not available for comment yesterday.

A "legal forum" is planned for next month to thrash out most cost-effective ways of applying legal aid.

Fikile-Ntsikelelo Moya reports that, according to Justice Department spokesman Paul Setsetse, the Legal Aid Board had sent a memorandum to the justice ministry asking for an increase in its annual grant.

Setsetse said the Cabinet's treasury board would discuss the request on October 14.

A source at the board, who spoke on condition of anonymity, said the board's inability to pay lawyers did not necessarily mean it was in dire straits. The source said the need for legal representation had grown since the new constitution made provision for all people to have legal representation even if they could not afford to pay for it.

Challenges on all sides confront HRC

(252) ARG 10/10/93

Pityana complains of ignorance of what human rights system entails

What are the challenges facing the Human Rights Commission in South Africa today?

The first has to deal with media whose attitudes range from hostile to indifferent and cynical

The media are vital for the development of a public consciousness about human rights, to be vigilant about human rights violations and to interpret the mood of society as accurately as possible

The media constitute, therefore, a vital resource for human rights promotion and protection

As I understand it, the attitudes of the media are shaped by various factors. One is ignorance

I have spent some time putting the SAHRC in the context of international relations and our constitution because I have reason to believe the media are inclined to be uninformed about what the human rights régime in South Africa and in the United Nations system actually entails

South Africa has the singular disadvantage of not having representative media so that one rarely finds vibrant, solid debate about national issues across the social spectrum. One particular manner in which

THE STORY

In a speech to the

South African

National Editors'

Forum, Human Rights

Commission

chairperson **BARNEY PITYANA**

warned of dangerous obstacles in establishing a human rights culture in South Africa. These are excerpts from his speech

political bias shows itself is when some newspapers show more concern about what was perceived as abuse of power by the SAHRC or the potential thereof or the failure to debate and address the phenomenon of racism in society adequately or raising issues about the extent of the operations of the SAHRC

Should it confine itself to human rights education, or should we be another form of legal aid for indigent petitioners - or should we be concerned about directing our activities towards government perceived as an instrument of power and potential for abuse of human rights?

Should the SAHRC be devoting as much attention as it does to social and economic rights? We welcome debate on any or all of these matters

We also face a challenge from the political institutions of our country

In the first instance, we have battled with structures of government where, in some instances, we have had very little co-operation from some ministers to the point that we have had to issue a subpoena to compel one minister to appear before us

What I suspect is happening is that the commission gets taken for granted

There is also ignorance about the

extent of the powers of investigation the commission has and the obligation on all state organs to give assistance to the commission in the course of its work

We have now approached the president so that we can sign a memorandum of agreement between ourselves and the Government where a solemn undertaking can be given to ensure mutual support and co-operation, accountability and

where boundaries are clarified

Some political parties have orchestrated the notion that commissions - including the Human Rights Commission - are wasteful extravagances

This simply confirms the view I have always held that these institutions were established by our constitution without consideration of what they would cost

As far as the SAHRC is concerned, the mandate of the commission has been extended since the interim constitution by the inclusion of monitor-

ing social and economic rights - the horizontal application of the Bill of Rights

We have taken on more, like the advancement of the rights of people with a disability. We have raised concerns about the proliferation of human rights institutions, some of which are political matters we can do nothing about

What we can do, and are doing something about, is to promote coordination and coherence in human rights policy and practice

We have regular meetings with all bodies engaged in human rights in the governmental sector. This networking and co-ordination is proving very valuable

As if that was not enough, there has developed another approach - that of discrediting human rights institutions. What is clearly happening is that suspicion is being raised against anyone who is black and holds a position of prominence, and allegations made against the IBA are being made to apply to everyone in similar positions

That is dangerous. This has nothing to do with investigation of abuses or corruption but simply undermines

the integrity of those who hold public office - especially if they are black. I cannot accept that

It is particularly dangerous because it serves, and may be intended, to undermine public confidence in these institutions. We believe fair criticism and debate are welcome, but this practice of casting aspersions is not acceptable

There seems to be the notion that those of us who serve in public institutions should not be paid properly in a competitive market - and when we are, we are greedy and unethical

Members of the human rights commission should be drawn from South Africans held in the highest esteem by all South Africans, they must be people of integrity and of independent mind.

We are not going to attract such people to the commission, where all they will ever get is to be subjected to public scorn and suspicion even as they try to do an honest piece of work

Wherever I go I have found human rights commissioners acknowledged as people worthy of respect in their societies, their earnings are commensurate with that. They are judges and academics. Not in South Africa.

Here we are supposed to be overpaid. We do not earn as much as judges in our country and not even as much as a head of a department in government service

If the idea that serving on a commission is a sacrificial occupation, then we must accept that only those who are well off will ever serve in them

Our final challenge emanates from the community we serve. South Africa remains a divided society. Priorities are set by one's background and experience, culture and language as well as political orientation.

Human rights is about taking responsibility. The work of human rights education is our biggest challenge

'Some parties ... have orchestrated the notion that commissions are wasteful'

'Some parties ... have orchestrated the notion that commissions are wasteful'

TRC must steer near-impossible course between 'justice' and the common good

By WILHELM VERWOERD

More or less one year after the country's "unprecedented transition", the relatively peaceful change from oppression, exclusivity and resistance to a negotiated democratic order, Minister of Justice Dullah Omar introduced the Promotion of National Unity and Reconciliation Act in the National Assembly.

In his introductory remarks Omar articulated a common recognition that this "miracle" could only be sustained if apartheid's unfinished business was tackled.

The future of democracy and development required that we deal with the legacies of a deeply entrenched system of white minority domination of the statutorily defined "Africans", "Coloureds" and "Indians".

The act provided specifically for the establishment of a Truth and Reconciliation Commission (TRC), which is but "a pathway" and "a stepping stone" alongside the other promising development instruments such as the Reconstruction and Development Programme (RDP), the Land Claims Court and a number of institutions supporting a constitutional democracy.

Within this package of responses to the injustices of the past, the TRC has been given the specific tasks of getting as "complete a picture as possible" of the "nature, causes and extent" of gross human rights violations during the period 1960-1994.

The commission must restore the human and civil dignity of victims by granting them an opportunity to relate their own accounts of the violations of which they are victims; facilitating the granting of

amnesty to those giving full disclosure of politically motivated crimes

during this period of resistance to and the defence of apartheid, and making recommendations to Parliament on both reparation and rehabilitation for victims.

This is a huge, almost impossible undertaking, as the first half of the TRC's life has shown. But the TRC in action has also confirmed its potential to make a uniquely important contribution to democratization and development in South Africa, by helping to strengthen the (moral) basis of an emerging democracy and deepening the foundations of the RDP.

However, this promise is challenged by public criticism, the main thrust of which seems to be a perceived "lack of justice". Since the TRC started with the uniquely public process of human rights violations and amnesty hearings, tensions between "justice" and the TRC have been highlighted by, among other things, the vivid portrayal in the media of witnesses' pain-filled accounts of death, torture and severe ill-treatment.

There is yet another important set of criticisms deploring the TRC's "lack of justice". From the perspective of those who are accused, mostly former enforcers of apartheid, there is a troubling contrast between the impartiality and the procedural protection of the justice system and a commission allowing, for example, untested allegations to be made in public human rights violations (HRV) hearings.

In the words of the retired police commissioner General Johan van der Merwe: "The principles of natural justice are not being adhered to. And there is no way we will be able to say afterwards that justice

has prevailed."

I want to defend the claim that, in principle, for South Africa, the TRC is the most appropriate protest against and response to a specific kind of wrongdoing, namely large scale politically motivated crimes within a transitional context.

Let us take a closer look at the kind of criticism which demands "No amnesty, no amnesia, just justice". In the context of gross human rights violations "justice" usually means, catch the criminals, prosecute and punish the perpetrators

out and punish the perpetrators. However, amnesty disrupts this process. Here are people who have often committed terrible crimes, but are allowed to walk free.

This disruption of the conventional trial and punishment of crimes creates a vacuum which can easily be filled with potentially explosive emotions, and with detrimental effects for both victims and society at large.

Perhaps the best response to this deeply felt opposition to an aspect of

(262)

Staw 10/10/97

the TRC's work is, firstly, to accept the common definition of (criminal) justice and acknowledge openly that amnesty is unjust.

This acknowledgement should also involve a recognition of the reality and legitimacy of the feelings of anger and frustration, the deep sense of injustice at stake.

It can then be made clear that this kind of criticism is misdirected: the TRC is not trying to achieve justice. Guaranteeing amnesty is the price we, unfortu-

TRC DIARY

The Truth and Reconciliation Commission will sit in Johannesburg next week for a special hearing on State Security policy.

The hearing will run from October 14 to 15 at the TRC offices in the Sanlam Centre, corner Jeppe and Von Weilligh streets.

The hearing was originally scheduled to start on Monday.

The continuation of an amnesty hearing for the killers of the Gugulethu Seven, which was scheduled to take place next week in Cape Town, has been postponed until November.

The highlight of the week starting October 20 will be the four-day continuation of the amnesty application of Jeffrey Benzen in Cape Town. Benzen previously demonstrated to the Amnesty

Committee how he tortured suspected enemies of the state.

Benzen is also applying for amnesty for the killing of Cape Flats activist Ashley Kriel in the last week of October: the legal profession will present its case to the commission. The hearing is scheduled to take place from October 27 to 29 in Johannesburg.

In the same week in Cape Town the Amnesty Committee will hear the applications of former Apia members involved in the Heidelberg Tavern shootings.

In the Northern Cape at the same time another Amnesty Committee section will hear a number of amnesty applications, including that of Walter Smiles and Laurens Mbattha.

nately, have to pay for peace, for the common good, for a negotiated settlement in 1994 which led to a democratic South Africa.

We might have to accept that there is indeed a moral conflict between justice, as embodied in the justice system, and values such as truth, reconciliation, peace and the common good.

The important point is, however, that (criminal) justice is not the only social goal, nor always the ultimate value. In the context of a fragile transition to a stable democracy, for example, political compromises, such as amnesty, might be justified for the sake of, say, the common good and peace.

General Van der Merwe's sudden concern with "natural justice" on the other hand, does appear rather suspect, but the issues he has raised are without doubt of fundamental importance.

In the case of the Chilean TRC respect for the rule of law and due process were given as the main reasons why the names of individual perpetrators were not published in their final report.

In the case of the South African TRC a number of unique features must be born in mind. The names of those who are given amnesty will be published, but this is done on the basis of full disclosure by the person him/herself. This removes to a large extent the need for procedural safeguards to protect the rights of the accused, the need to protect the innocent, until proven guilty.

A recent supreme court judgment states that as long as those accused are given a chance to respond to allegations, the TRC process meets the test of procedural fairness. The important point highlighted by the judgment is that our

vision of "natural justice" within the TRC requires flexibility and sensitivity to the context. It should not be "blinkered by an inability to see beyond the procedures of adversarial litigation."

Justice at the level of the social order is also a demand for rectification of wrongs done by the previous illegitimate state and other institutions. The TRC is not only trying to bring to light dark deeds of individuals. It is attempting to highlight the responsibility of various institutions for injustices.

Chains of command beyond the actions of the "foot soldiers" are investigated, submissions are requested/received from church groupings, the media, different sectors within the health profession and the judiciary.

These hearings and investigations are also accompanied by a consultative process of preparing detailed recommendations to prevent similar violations in future.

It is probably asking too much to expect of the TRC to contribute much to the long-term, complicated processes of reconciliation between individual victims/survivors and offenders, and within and between the different communities.

The TRC's main contribution to reconciliation is probably to help overcome the alienation caused by apartheid, to help reconstruct the relationship between the new democratic state and her citizens.

Wilhelm Verwoerd is a lecturer in the Department of Philosophy, University of Stellenbosch, and a researcher for the TRC. This is an edited excerpt from a paper he delivered at the Fifth International Conference on Ethics and Development in Madras, India.

The key question is whether the police killed the Ribeiros with help from special forces, or the other way around?

POLICE AND SPECIAL

BY ROBERT BRAND

Ever since the arrest and subsequent release of Special Forces operative Noel Robey for the murder of the Ribeiro couple in 1986, suspects have lingered that the military could have been involved in the killing.

Those suspicions were confirmed late last year when two former security policemen, Colonel Jack Cronje and Captain Jacques Hechter, revealed in amnesty applications that the murders had been a joint operation of the police and Special Forces.

This week, the Truth and Reconciliation Commission heard that the Ribeiro murders had been the result of a plan devised by former Special Forces commander Major-General Joep Joubert to combat opposition to the National Party government by "eliminating" its opponents.

It was also revealed that the chief of the SADF at the time, General Jannie Geldenhuis, knew Special Forces operatives were involved in the murders.

He kept quiet for 11 years while police investigations failed to collar the killer. Dr Fabian Ribeiro and his wife Florence, well-known activists in Mamelodi, Pretoria, were gunned down at their home on December 1, 1986.

Police traced the getaway vehicle, a Landrover, to a Robey and the SADF Robey was arrested, but released when witnesses could not positively identify him at an identity parade. No one was prosecuted for the murders.

Although Joubert confirmed that the murders, for which he has applied for amnesty, were the work of the security police and Special Forces, the true nature of the SADF involvement in these and other eliminations is still uncertain.

Joubert's version of events, presented at the TRC special hearing on the role of the armed forces, differs in important respects from the story told by Cronje and Hechter.

The story starts in mid-July 1986, when Joubert, according to his evidence, received an instruction from Geldenhuis to



Identified trouble spots ... Major-General Joep Joubert took his plan to kill activists to the chief of the SA Defence Force.

"make a plan" to provide support to the security police to combat internal dissent. The plan would involve "unconventional and revolutionary methods", he says in his amnesty application.

Geldenhuis confirmed that he had given the instruction, but said it was part of a broad instruction given to all sections of the SADF, not only Special Forces.

Joubert said he identified three "trouble spots" - Northern Transvaal, Witwatersrand and Eastern Province - and decided he, as commander of Special Forces, would meet with the security police and army commanders in those areas to identify "targets of importance in getting the areas under control".

Special Forces groups, comprising five members of the Civil Cooperation Bureau (CCB) each under the command of a senior officer, were sent to Northern Transvaal and Witwatersrand to support the police. Key elements of the

plan, designed for "maximum disruption of the ANC", were the "elimination of ANC leaders, destruction of their facilities and support structures, and elimination of their supporters and collaborators".

Because it was "a very busy time", he could not secure a formal meeting with Geldenhuis to propose the plan to him. But he explained the plan to Geldenhuis at a social function, and Geldenhuis told him that "it sounded good". He took that as authorisation to put his plan into action.

Geldenhuis said Joubert never explained the full details of the plan to him, and he had not authorised the elimination of activists. But he conceded that Joubert could have misinterpreted his instructions.

Joubert has disclosed three operations carried out in accordance with his plan: the murder of the Ribeiros, the murder of KwaNdebele cabinet minister Piet Ntuli, and the killing of 10 teenagers from Mamelodi who were "re-

cruted" into the ANC by security policeman Joe Mamasele, posing as an ANC member.

The 10 youngsters were blown up at Ntwerdend, near the Botswana border, in a number they thought was taking them to an ANC camp for military training.

Joubert said when Geldenhuis found out about the Ribeiros murders, he insisted on the establishment of procedures to ensure that similar operations could not be launched without authorisation "at the highest level".

No further eliminations took place after that, he said. Joubert emphasised the Special Forces never acted on their own inside the country, only in support of the police. "We did not act unless requested by the police."

But Cronje and Hechter told a different story. They said that Special Forces operative Com-

mandant Charl Naude had approached them for assistance in the Ribeiros murders, not the other way round. Hechter, as the security policeman responsible for Mamelodi, had helped with the planning, but did not take part in the actual killings, which was done by two Angolans specially flown in for the operation.

In the Ntwerdend case too, Cronje and Hechter said, Naude had asked them for assistance and Hechter had helped only with the planning.

There is also a difference in the accounts of events following the Ribeiros murders. Joubert claims he had discussed the murders after the fact with then police commissioner Johann Coetzee, and was surprised to learn Coetzee had not authorised the operation.

He thought Cronje, as the senior police officer involved, had the backing of his chief.

Cronje, on the other hand, said he did not need to get authorisation for what was essentially a Special Forces operation. His role was to inquire from time to time from Hechter how the planning was going, he said.

He added that Joubert had asked him to stop the police investigation, headed by the Brigadier Basie Smut, after the arrest of Robey. Because he was not involved in the investigation, he could not help.

But he said Joubert had subsequently discussed the problem with Coetzee, with the result that Smut was taken off the case and the investigation came to nought.

Coetzee denies these allegations, and says he did not have any knowledge of criminal activities by the CCB.

Whatever happened, the investigation was stifled and no one was brought to book al-

though the chief of the SADF and, allegedly, the chief of police, knew who was responsible.

Geldenhuis told the TRC he did not take any steps against Joubert because the information he had had already been imparted to the police and he did not want to interfere in the investigation.

When the investigation failed to yield results, he said, he accepted the outcome - an astounding admission for a man charged with the safety of the citizens of South Africa.

When Joubert's amnesty application is heard, the committee will have to rule whether he or Cronje and Hechter are telling the truth about the Ribeiros murders. Was it a police operation, with support from Special Forces, or was it a Special Forces operation with help from the police? This is a cru-

BLAME EACH OTHER

Keeping our readers informed

Every Friday The Star will produce a news feature to keep you up to date with the Truth and Reconciliation Commission. The feature, produced by our team of specialist TRC reporters, will provide all the background, the news and the insights you need to keep you in the picture as the dramatic story of our past unfolds.

Every Friday, because it gets to the heart of the SADF's involvement in internal politics, a role former SADF chiefs have steadfastly denied.

PROCESS OF ELIMINATION BEGINS ON A DREADED WORD

When 'misunderstanding' means death

(252) ET 10/10/97

THE GENERALS quibbled over the meaning of the word 'eliminate' yesterday, but conceded that its use could have been taken as a licence to kill. **ROGER FRIEDMAN** reports.

A PARTHEID police commissioner General Johan Coetzee brought various dictionary definitions of the word "eliminate" with him when he was subpoenaed to appear before the Truth and Reconciliation Commission yesterday, to clear up any misunderstandings that its use in a security context did not necessarily mean "to kill".

His source material included the school dictionary *Bosman, Van der Merwe and Barnes* and the more authoritative *Handwoordeboek van die Afrikaanse Taal (HAT)*. He demonstrated the word had many meanings, which boiled down to "removing" supporters of the liberation movement by arrests and detentions in the apartheid security context.

He conceded that his subordinates might have misconstrued the meaning, but then they did not have dictionaries "to understand these type of things", he said. Coetzee was appearing alongside his successor General Johan van der Merwe and four of their subordinates, representing the police force during four days of hearings on the operations of the security forces and liberation armies

of the previous dispensation.

Discussion on the meaning of "eliminate" occupied much of the day. Neither general understood its use in State Security Council (SSC) documents to mean kill, while the subordinates — two brigadiers and two majors — were unanimous that they did.

Van der Merwe put it down to an "unfortunate choice of words", but said he had understood it to mean arrest or detain. He suggested the commission clarify its use by asking members of the SSC, several of whom are to appear at a hearing next week.

He did not know whether the word was deliberately euphemistic so as to "convey a subtle message". He acknowledged that people were killed because it was understood to

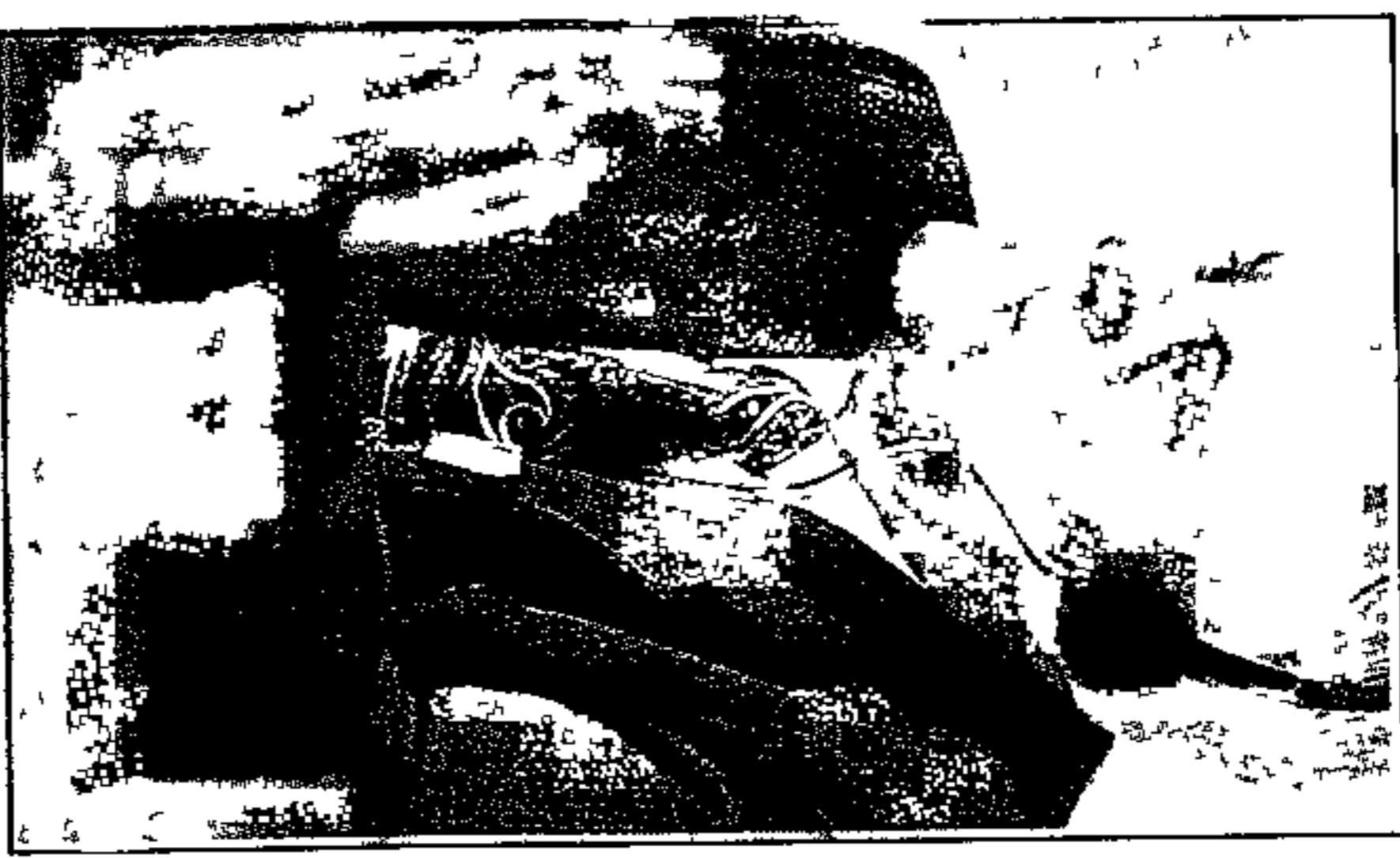
authorise murder. Former security police spy Major Craig Williamson said the language chosen in SSC documents "was a way to fudge the issue".

He pointed out that the documents were drafted by "functionaries" and approved by the SSC. Had the politicians on the council objected to such words as "eliminate", "neutralise" and



JOHAN VAN DER MERWE: 'Eliminate' meant arrest or detain.

"wipe out" they would have had them struck from the document. Brigadier Alfred Oosthuizen said "eliminate meant to kill". But, he said, the police preferred to use the equally-euphemistic "remove" in their discussions about murders. "Eliminate" was a term favoured by the military. "There was never any lack of clarity



WILLEM SCHOON: 'Eliminate' meant kill. **PICTURES: THEMINKOSI DWAYISA**

about take out and eliminate," he said. Brigadier Willem Schoon, the man responsible for Vlakplaat, said he wished to emphasise "Words like 'eliminate' and 'take out' for the members on the ground who were in a war situation referred only to killing people." Major Sarel Craford of the old Northern Transvaal security branch

said "I think personally that in this context elimination means to kill". Other issues covered yesterday included

● Van der Merwe said although the SSC never issued instructions that security forces should violate human rights, its members were aware that unlawful activities were being carried out

● Asked to comment on former state president F W De Klerk's submission that he had no knowledge of unlawful actions, Van der Merwe said "certain instructions" were issued by his minister and he had "no doubt" the minister would have informed the SSC.

● Williamson said of De Klerk "If he believes what he says then his eyes were closed. If he does not understand how those civil servants like myself were trained and thought then there was something wrong in the system."

● Williamson said the security forces should not shoulder all the blame for apartheid crimes. "Our weapons, ammunition, uniforms, vehicles, radios, and other equipment were all developed and provided by industry. Our finances and banking were done by bankers who even gave us covert credit cards for covert operations. Our chaplains prayed for our victory and our universities educated us in war. Our propaganda was carried by the media and our political masters were voted back into power times after time with ever-increasing majorities."

Omar raps (252)

Afrikaans newspapers

over TRC

Star 4/10/97
Most of the South African media – but not the Afrikaans press – was playing a positive role in covering the Truth and Reconciliation Commission, Justice Minister Dullah Omar said yesterday.

Speaking at a seminar in Johannesburg on the TRC and human rights journalism, Omar said the Afrikaans media should stop presenting misleading perceptions that the commission was a witch-hunt.

He added, on the white Afrikaans journalists who recently acknowledged their role in reporting on apartheid in a submission to the TRC: "They are very brave journalists. I want to record my admiration for their courage."

Responding to allegations by Winnie Madikizela-Mandela that a disinformation campaign was being waged against her by the media, particularly through the SABC's special TRC report, programme editor Max du Preez told the conference he took it she was referring to the night young activists were beaten.

This act was classified as a violation of human rights and it was the special report's job to report on it, Du Preez said.

He added Madikizela-Mandela was just one of many people who had accused the special report of running disinformation campaigns. Among these were ex-minister Magnus Malan, Eugene de Kock and two Inkatha warlords – Sapa



LEON MULLER

Shadowy cop fades into a dead phantom

PETER DIPPS
(252)

APR 4/10/97

Port Elizabeth - He was the divisional commander of the Port Elizabeth security police for at least five years during the Death Squad era, but he remains a shadowy figure even now that he has apparently died.

Only twice, during the 1993 second inquest into the Cradock Four killings of 1985 and during this week's amnesty application of nine former policemen before the TRC for the 1989 Motherwell bombing, has his name been mentioned in public by one of his men.

Back in 1988 and 1989 reporters could never get fame Gilbert's name out of him when following up on township families' requests to find out if their missing sons or daughters were in detention.

Unlike his other top-brass colleagues with spokesmen handling all queries on police activities, the then Colonel Gilbert was directly approachable - albeit telephonically only - and honoured his promises.

Monosyllabically, pleasantly and with a measure of movie-caricature menace in his gravel Afrikaans accent, he always promised to check and call back.

And he always did.

Some time in 1990, however, the now Brigadier Gilbert became unavailable. Reporters learnt his name only in 1993, with the news that he had died.

There were no other details and there never have been.

No photographs of him exist in any newspaper library, nor at the Eastern Cape's police headquarters.

Beyond a vague description - short, stocky and middle-aged with brown hair when a colonel - no one knows where he came from, what he did, where he went or even when he died and where he was buried.

Yet he was the commander of men who now confess to having been involved in multiple murder, kidnapping, torture, fraud and lies under oath, men theft from churches and visiting anxious or grieving victims' families dressed as priests - ECN

When a man
in a uniform
gives the
orders
never
hard to
pull the
trigger.
It's easy
to tell
someone to
pull the
trigger and
then go
home and
lead a
normal life.

De Kock: after dozens of years of loyal service to his apartheid rulers, he felt 'nauseous' when the upper hierarchy of the police distanced themselves.

Afrikaans mee raunc erfire

for giving TRC bad press

(252)

Stop misleading your readers, warns Omar

AR 4/10/97

Johannesburg - Most of the South African media - but not the Afrikaans press - was playing a positive role in covering the Truth and Reconciliation Commission, Justice Minister Dullah Omar said.

Speaking yesterday at a conference in Johannesburg on the TRC and human rights journalism, Mr Omar said the Afrikaans media should stop presenting misleading perceptions that the TRC was a witch-hunt.

He said that far from being a witch-hunt against former apartheid personnel and politicians, the process had been generous. In practice, and in a review of media reporting, there had not been a single example of a witch-hunt, he said.

"I hope the Afrikaans media will stop misleading its readership in this regard because it only creates negative attitudes, which in turn adversely affects the attitudes of the readership."

Mr Omar said he had the highest regard for the white Afrikaans journalists who recently acknowledged their role in reporting on apartheid in a submission to the TRC.

"There have been some very brave journalists and we must record our admiration for their courage."

Mr Omar said the success of the TRC could be attributed to the hard work, dedication and vision of its per-

sonnel, and the defined roles and functions of its structures.

The subsection of legal and technical considerations to the overall needs of nation-building also played a part, as did the international support and response, especially from other governments. Mr Omar noted that Winnie Madikizela-Mandela had complained she was the subject of a disinformation campaign.

Ms Madikizela-Mandela singled out for criticism Max du Preez, editor of the SABC's special TRC report.

Du Preez told the conference he took it she was referring to the night activist Stompie Seipei, 14, and others were beaten up.

The SABC programme has aired interviews with various people - including Jerry Richardson, Seipei's convicted killer who was the head of her bodyguards, the Mandela United Football Club. Richardson implicated her in the murder of several young activists. This act was classified as a violation of human rights and it was the special reports' job to report on it, Du Preez said.

He added Mrs Madikizela-Mandela was just one of many people who

'There have been very brave journalists and we must record our admiration'

accused the special report of running disinformation campaigns in its weekly roundup of evidence, testimony and developments at the TRC. Among these were former defence minister Magnus Malan and two Inkatha warlords.

Mr Omar said the business community should respond to TRC chairman Archbishop Desmond Tutu's call for financial contributions to make reparations to the victims of apartheid. This would make an impact not only on the TRC's ability to deliver on reparations, but also on the business community's credibility in the eyes of millions of South Africans.

Mr Omar said the TRC had succeeded in establishing accountability for individuals and organisations - such as political parties, and professions - and was a major contributor to a culture of human rights.

"By pricking the conscience of South Africa and making reparations, rehabilitation and the restoration of dignity the common responsibility of all South Africans, it remains an exciting period for us to live in," said Mr Omar - Sapa



Dullah Omar: slammed the Afrikaans press for branding the TRC as a witch-hunt

Blaming dead men makes me sick - Prime Evil

ARLT 4/10/97 (252)

As apartheid South Africa's most effective state killer, Eugene de Kock headed a motley crew of Vlakplaas untouchables that listed murder and mayhem as part of their daily job description. He was 'baas van die plaas' that killed more than 60 people. Then apartheid was dismantled and he became the sacrificial lamb hung out to dry for two life sentences and 212 years for dirty tricks. **David MacGregor** was at the Port Elizabeth TRC amnesty applications this week to watch Prime Evil fight it out with the Eastern Cape's most feared security cop, Gideon Nieuwoudt.

Port Elizabeth - Eugene de Kock took his thick bottle-bottom glasses from his face and wiped his tired eyes with the sleeve of his drab olive green prison uniform as gruesome details of the 1989 bomb blast murder of three security policemen and an informer unravelled.

Although indemnified for his role in the Motherwell bomb blast through his testimony at last year's trial of Nieuwoudt and his cronies, De Kock had still decided to come to the table to apply for amnesty.

His eagerly awaited revelations opened a nasty can of worms that was in sharp contrast to the eight other amnesty applicants. Some were using the TRC as an opportunity to try to wriggle their way out of the stiff jail sentences they were given last year.

That was until De Kock threw a spanner into the works.

The once feared "Fok-Fok" De Kock cut a lonely figure as he denied claims by the eight amnesty applicants that the murders were politically motivated.

He also denied that responsibility for the killings was based on the sole orders of a dead man - the mysterious former head of the Eastern Security Police, Brigadier Fanie Gilbert.

Describing the murky waters in which security operatives worked as a thousand different shades of grey, De Kock said he was bitter to a certain degree that he had been sold out by his former apartheid masters.

De Kock said he took full responsibility for the actions of the men under his direct command - but not those above him.

"I believed wrongly that there was an integrity and moral fibre in the top structure. It is correct to a certain degree (that I am bitter) I'm also disillusioned. One would have expected them (the "generals") to have the integrity and the backbone to take



Nieuwoudt: 'pushed the button'

responsibility for their actions."

He said that after dozens of years of loyal service to his apartheid pipers, he had felt "nauseous" when the upper hierarchy of the police - simply called "the generals" - distanced and dissociated themselves from him.

In reference to killings authorised at senior security branch level, De Kock said "Many of those who gave the orders never had to pull the trigger. It's easy to tell someone to pull the trigger and go home and lead a normal life."

Like many other security cops, Warrant Officer Glen Mgoduka, Constable Desmond Mapipa, Sergeant Amos Faku and askari Xolile Shepherd Sakati - known as Charles Jack - were lining their own pockets with money they had intercepted, which was bound for churches, trade unions and leftist groups.

In his testimony on Tuesday, Nieuwoudt said the order to kill the men had come from Gilbert. This was disputed by lawyers for the Mgoduka and Faku families who claimed Nieuwoudt had pressured Gilbert into giving the order - after Gilbert had suggested transferring the men.

"Brigadier Gilbert subsequently gave me an order to launch an operation to eliminate these people. He suggested that the operation be directed in such a manner that the blame for the elimination would be placed on the ANC."

To qualify for amnesty, applicants must make full disclosure of their actions and

prove a political objective.

Trying to do that this week, Nieuwoudt said the men had been recruited by the ANC and were working as double agents when they were killed. They were also being investigated for fraud and there was a danger they would blow the whistle on security police involvement in the killings of Matthew Goniwe and three other UDF activists if they were charged and appeared in court.

With their intimate knowledge of the security branch apparatus and the names of informers, the Motherwell Four also posed a "real danger" that would "paralyse the intelligence network completely" if they told the ANC.

He admitted he had "pushed the button to kill the policemen" after a car had been primed by Unit C10 technical division members who had to drive down to Port Elizabeth "in secret". Three Vlakplaas operatives also made the trip - armed with Makarov pistols - to finish off the four if the bomb blast failed. All were ordered to "make it look like the work of the ANC."

Nieuwoudt, Vlakplaas operative Marthinus Ras and former security police technical unit head Wal du Toit were also sentenced to lengthy jail terms last year at the Motherwell trial and are trying to appeal the sentences.

Two other former Port Elizabeth security policemen, Gerhard Lotz and Kobus Kok, were acquitted at the trial, but are also applying for amnesty, as are Vlakplaas' Snor Vermuelen and C10 head General Nic van Renburg.

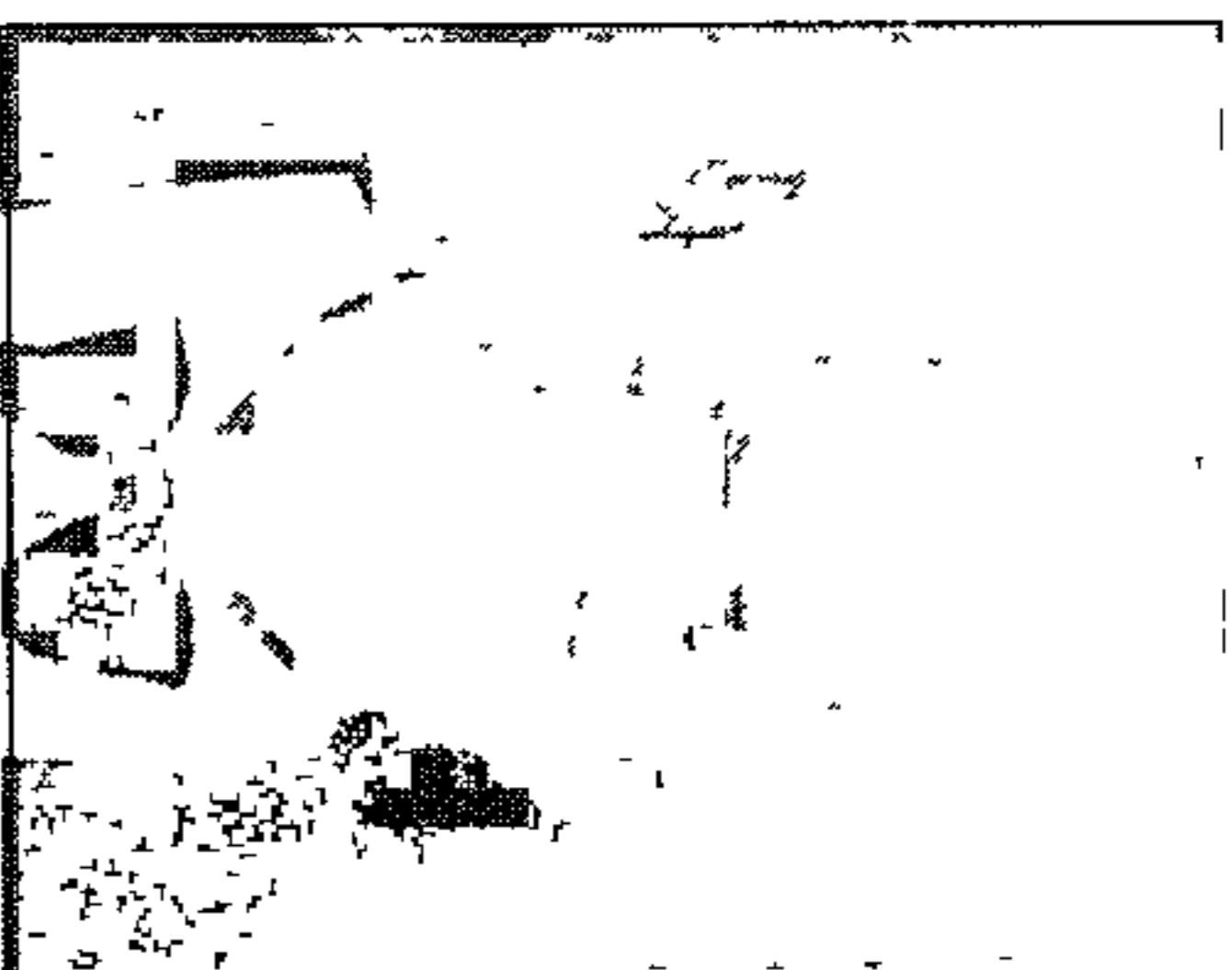
This week De Kock spent a few days away from South Africa's most hard core prison, the newly-opened CMAX in Pretoria, to spend a few days at the seaside St Alban's maximum security prison.

At least he had a few more perks than the cold concrete bed and bland conditions of CMAX - which drove him into extreme depression.

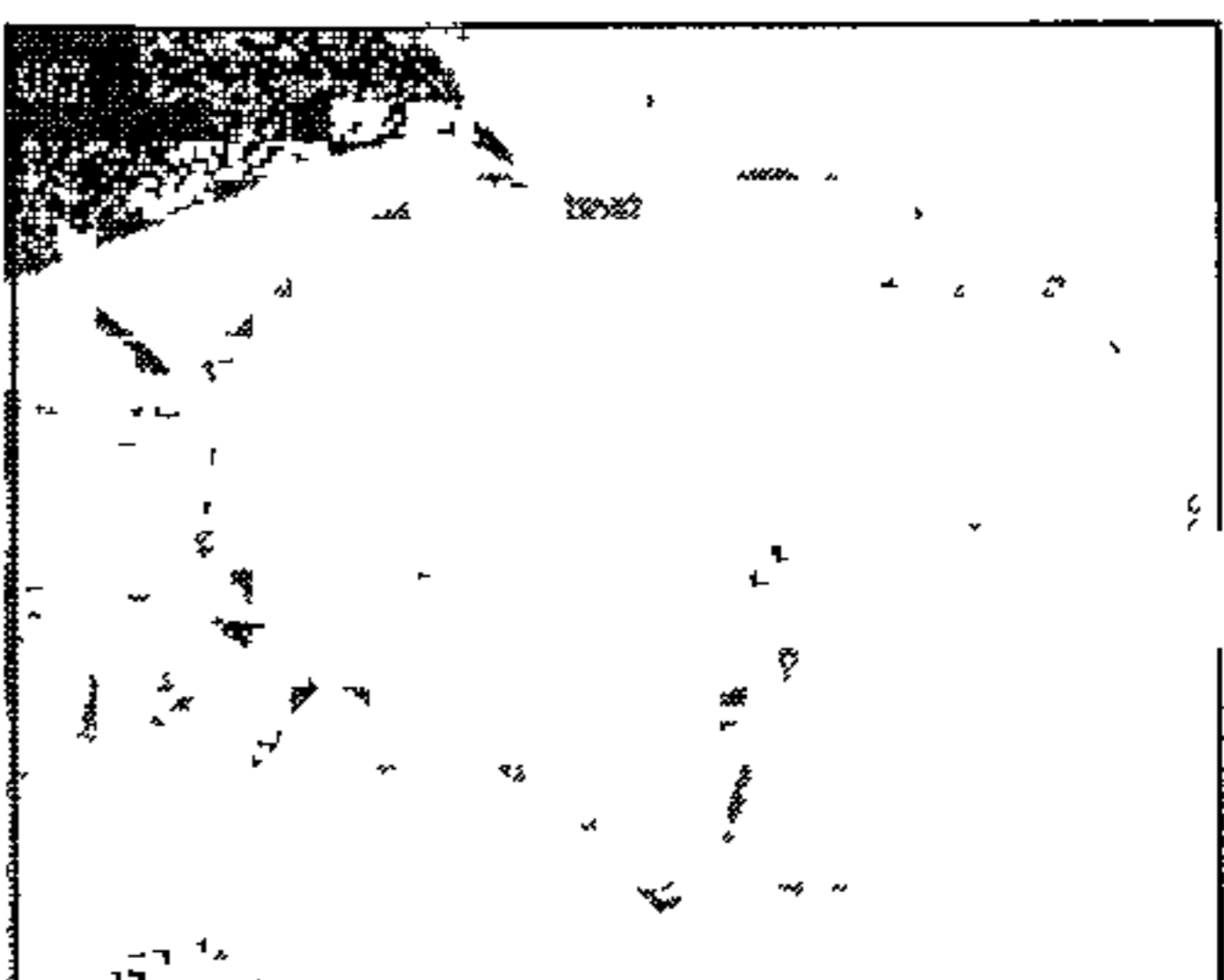
De Kock said what sickened him most about the testimony of the amnesty applicants was their desire to blame the orders for the deaths - "like the Biko case" - on "dead men."

When the TRC circus wound down in Port Elizabeth this week, De Kock was the only amnesty applicant to meet with Mgoduka and Faku's widows and express his regret and sympathy. The widows earlier said out of all the testimony, De Kock's seemed the most believable and closest to the truth.

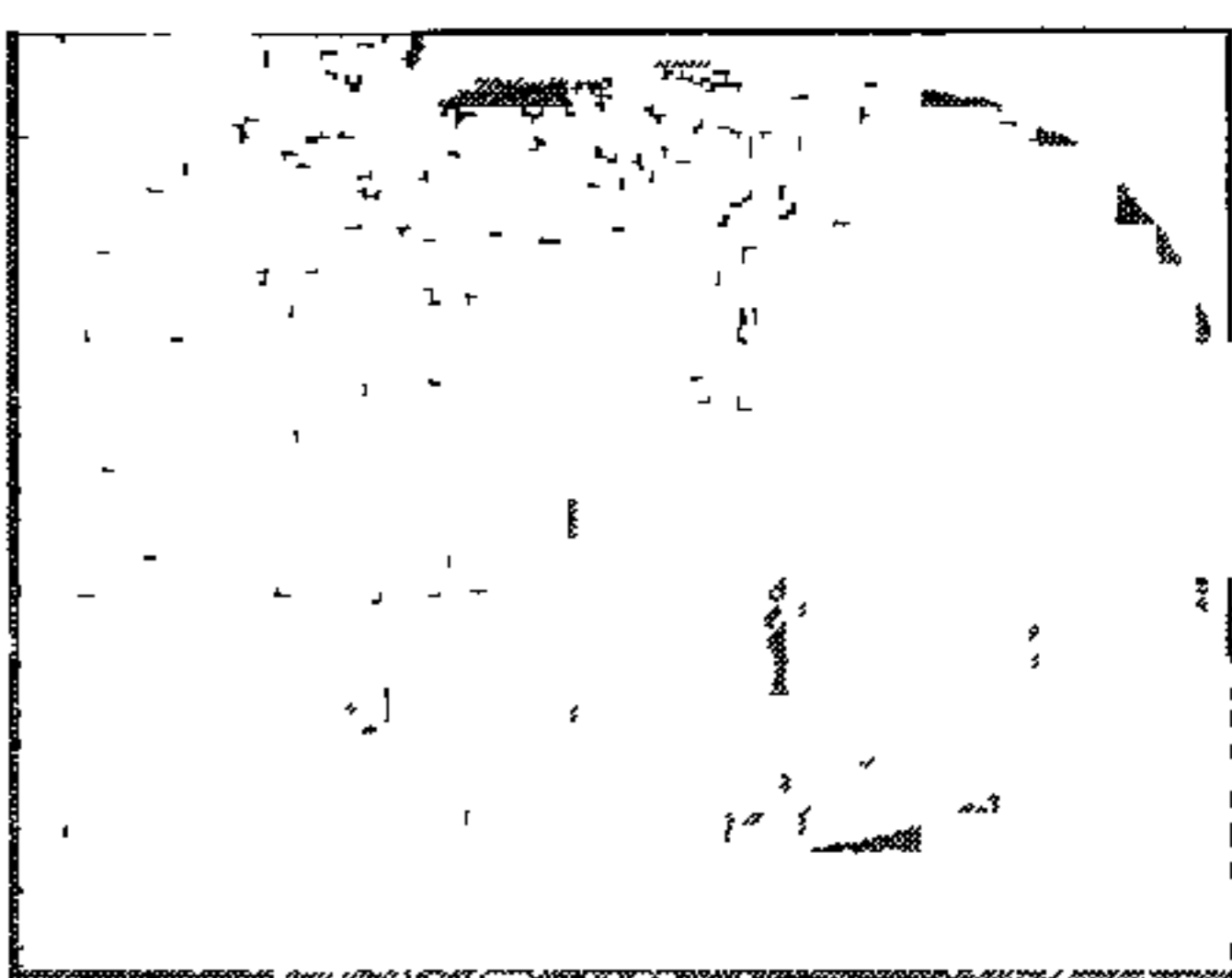
One thing is certain - Prime Evil, who chose prison garb over a suit as a protest, will be back to haunt his former apartheid masters - EGN



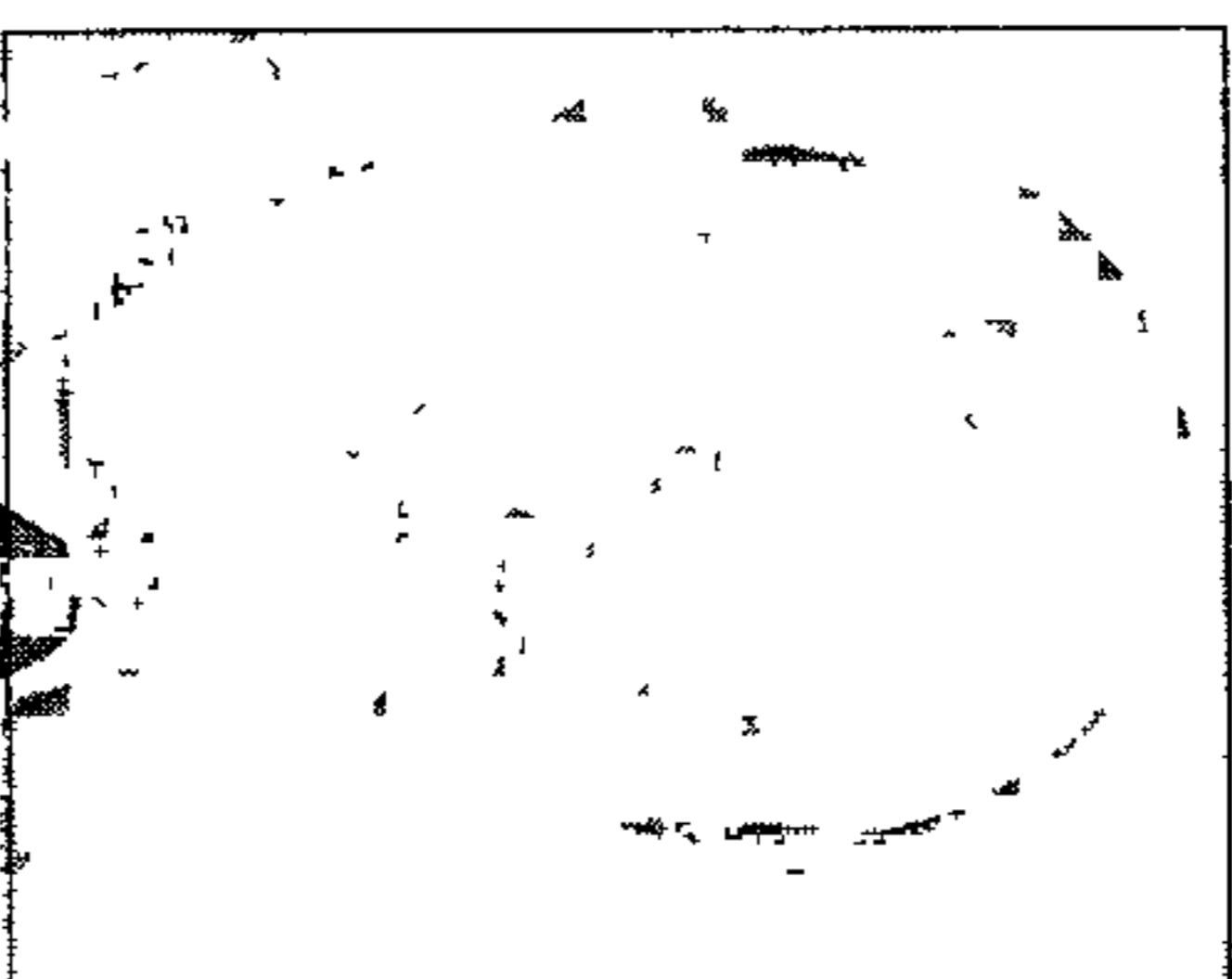
NOT GUILTY, THANKS... Former state president PW Botha says his conscience is clean



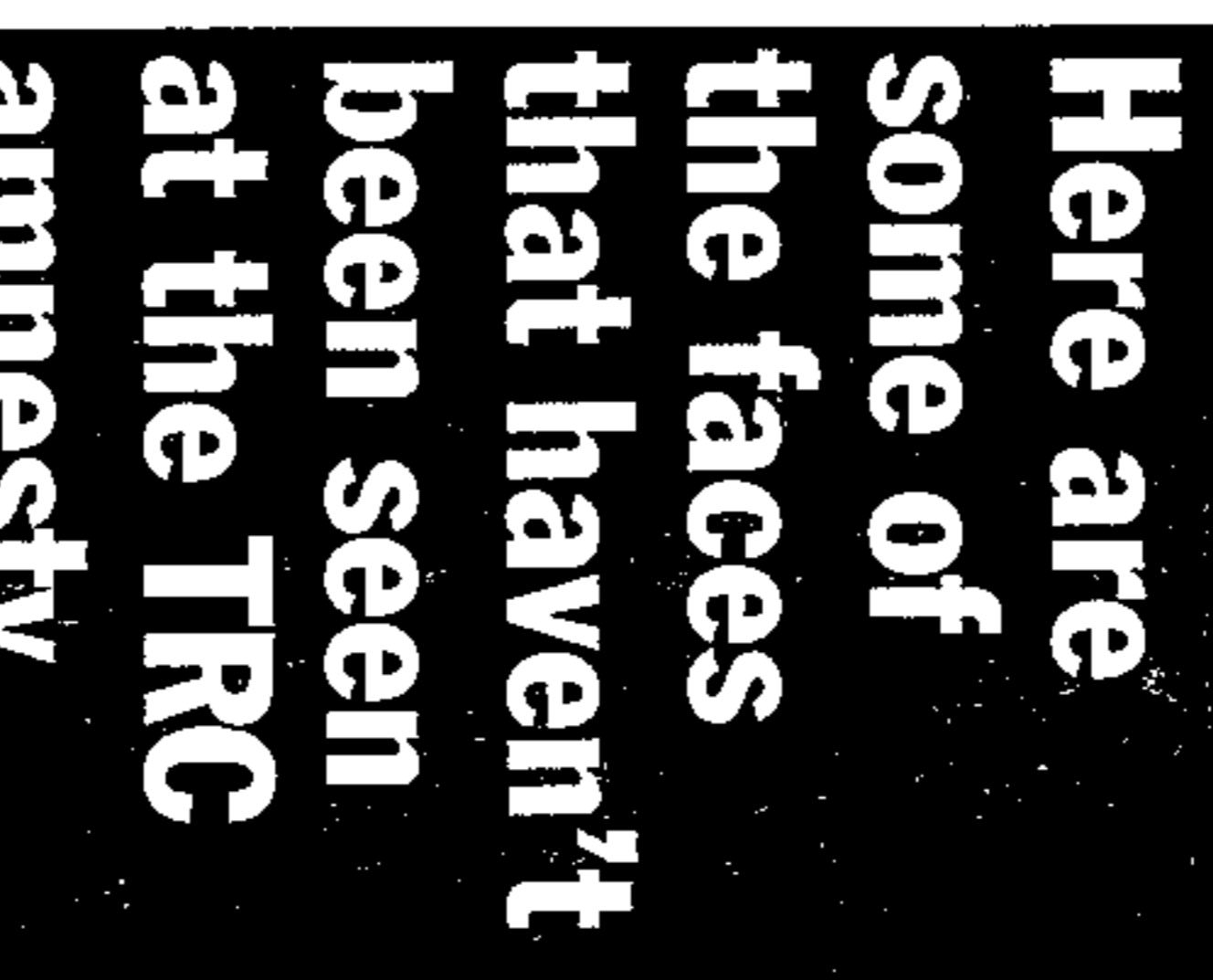
NOTABLY ABSENT... Former state president PW de Klerk says human rights abuses were not NP policy



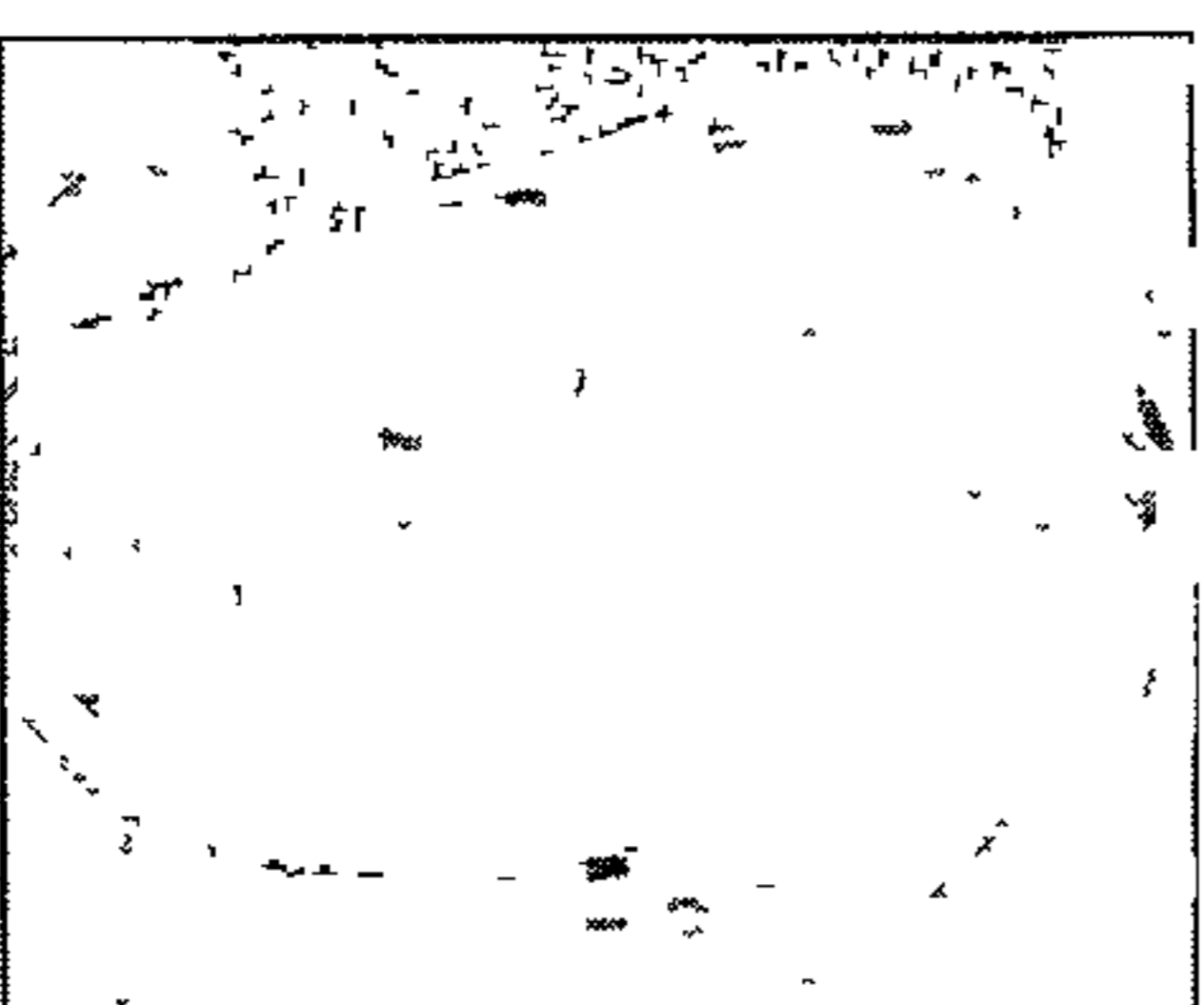
FEELS NO NEED TO APPLY... Inkatha Freedom Party leader Mangosuthu Buthelezi



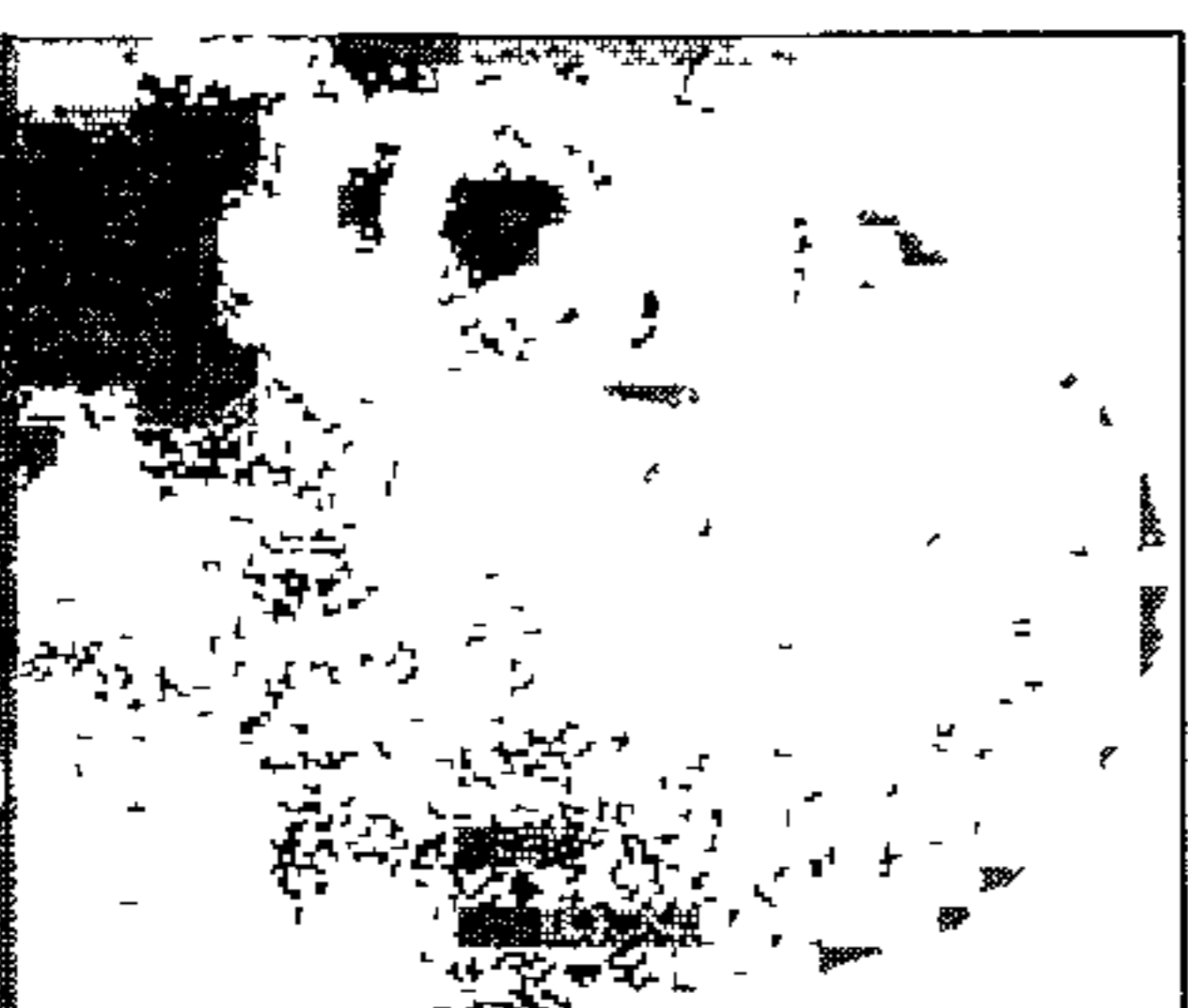
IT WAS A LEGITIMATE WAR... General Magnus Malan seems to have no qualms over the past



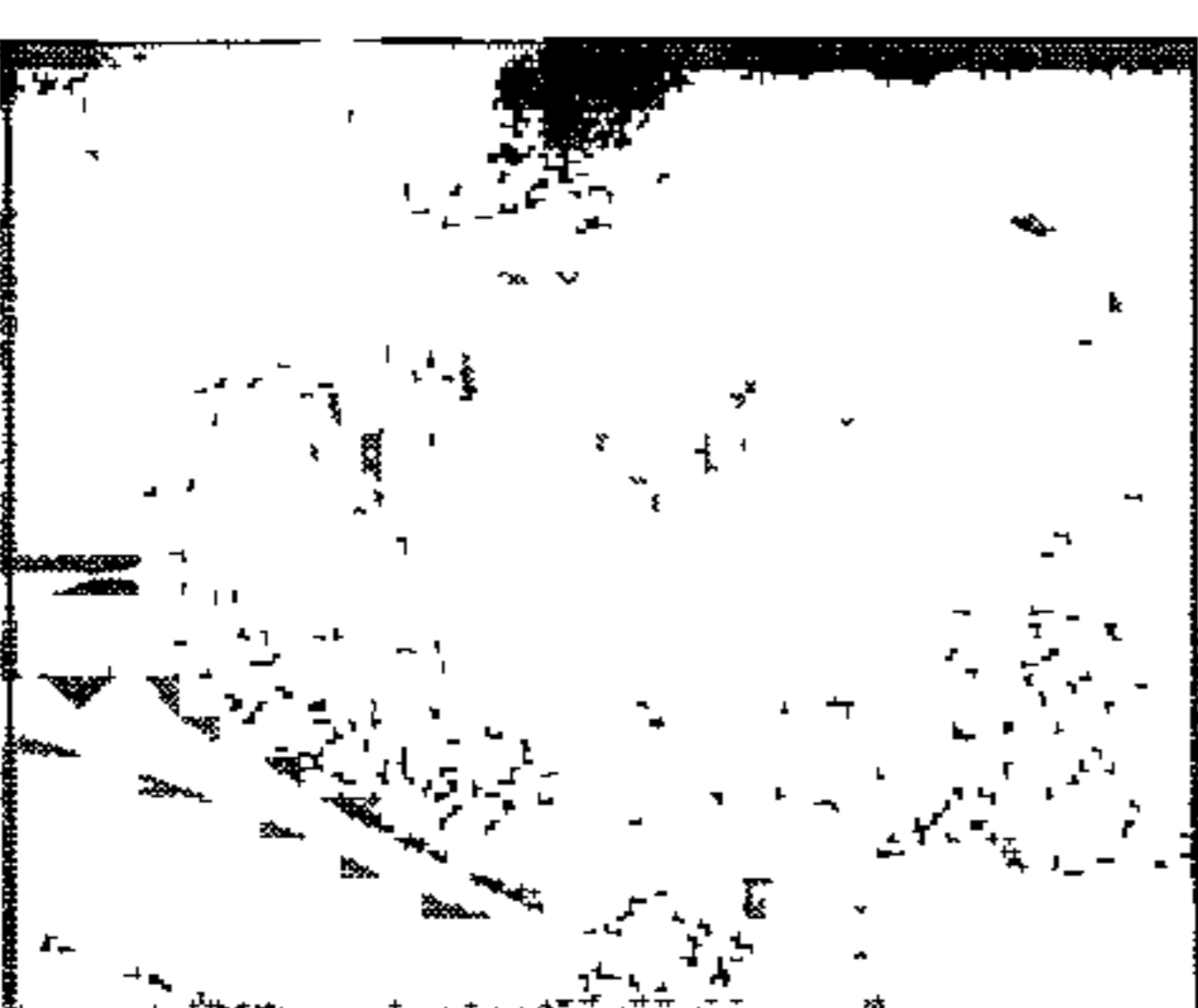
IGNORING ADVICE Winnie Madikizela-Mandela has scorned the idea of asking amnesty



JUST A SOLDIER... General Constand Viljoen feels he acted honourably as former SADF chief



STAYING AWAY... IFF Gauteng leader Humphrey Ndlovu, accused of fomenting violence



NO-SHOW... IFF Gauteng MPL Themba Khoza, accused by Eugene de Kock of pre-election violence

Amnesty? Why should we ask for amnesty?

List of TRC 'no-shows' reads like a who's who of the past

CABINET MINISTERS, generals, MPs and members of provincial legislatures, self-confessed assassins and notorious warlords are among those who have not stepped forward to all and ask amnesty.

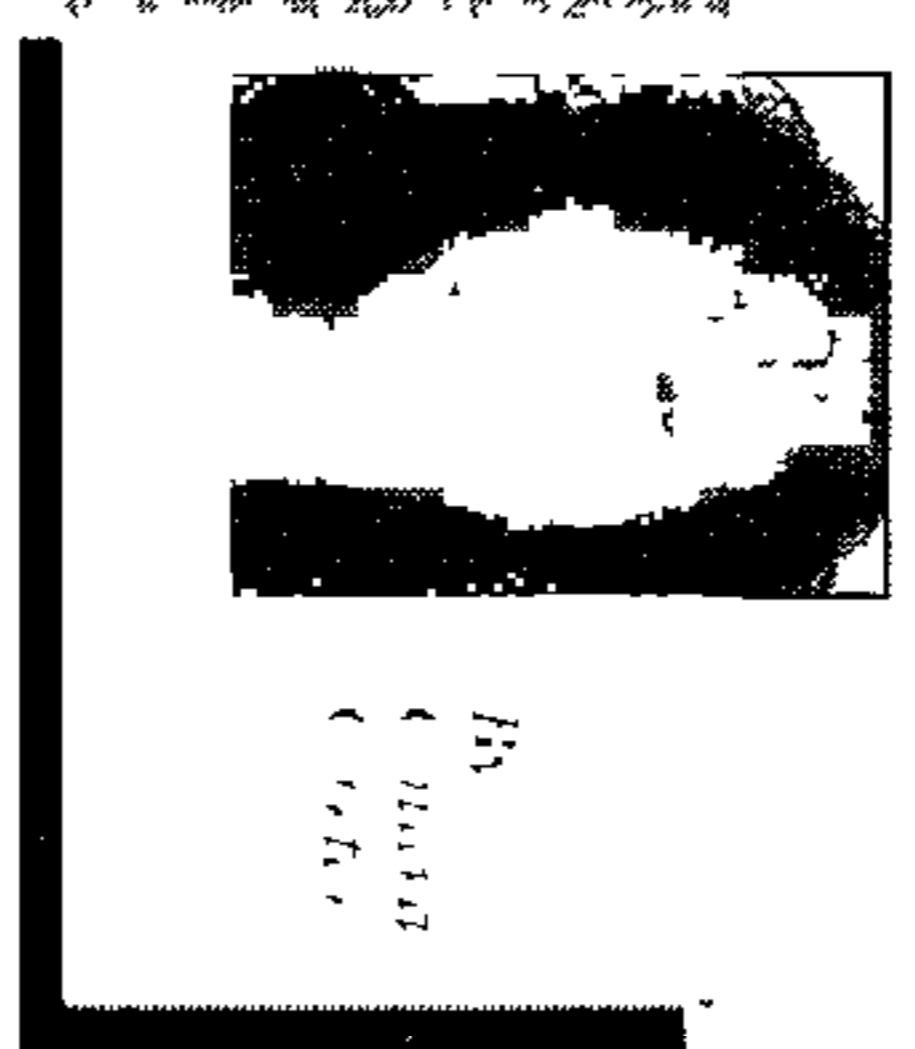
This is despite the deadline for applications having been twice extended prior to the "window period" for last-minute applications, which ended earlier this week. While the TRC has received more than 7 000 amnesty applications, a list of the "no-shows" would read like a who's who of the apartheid past.

Neither FW de Klerk nor his predecessor, PW Botha, have applied. Nor have most of their former cabinet colleagues. A notable exception is former safety and security minister Adriaan Vlok who, with his police generals, led the way for the police to approach the TRC.

Former minister Piet Koornhof has asked pardon for being part of implementing apartheid policy, while former defence minister Roelf Meyer and former foreign affairs minister Pik Botha have both offered to help the TRC. Most of their erstwhile colleagues have not.

This is in line with the National Party presentation to the TRC earlier this year when De Klerk argued that, while his party apologised for apartheid, gross human rights abuses were not party policy and those who had committed such deeds acted outside the ambit of the law.

However, this is likely to be closely questioned this week when the TRC conducts hearings on the State Security Council which virtually ran the country during the 1980s. Unlike the police, apartheid's



soldiers have not rushed for amnesty. This is despite the SADF's involvement in cross-border raids, wars fought against liberation armies in neighbouring states, massacres such as Cassinga and ongoing border operations, not to mention the role played by the SADF in the townships.

Former SADF chief and defence minister Magnus Malan has not asked pardon. Other generals that sprung to mind include Kat Laebenberg, Thembu Groenewald and Constand Viljoen.

Former SADF leaders have argued that the armed forces were involved in a legitimate war and that SADF actions beyond South Africa's borders fall outside the ambit of the commission. The Military Intelligence operations, which included ongoing interference in the homelands, including orchestrating coups, remain shrouded in mystery - with few MI operatives claiming amnesty.

Some members of the notorious Civil Co-operation Bureau have lodged applications, but the facts surrounding high-profile murders believed to be linked to the CCB - such as the assassination of Wits academic David Webster and the slaying of Swapo lawyer Anton Lubowski - do not feature in these applications.

The TRC is holding hearings into armed forces this week. While most security police have long since filled out their application forms, Vlakplaas's most notorious operative, self-confessed assassin Joe Mamasela, has not done so. Despite having a string of gruesome murders to his name, Mamasela has been indemnified from prosecution in return for his assistance as a state witness.

Most of the agents and informers who provided information which led to gross human rights violations, including murder, remain unknown. So do the identities of the assassins who gunned down the Ribeiros and murdered Springs NP candidate Robert Smit and his wife. Many high-ranking leaders of the ANC and PAC have applied for amnesty. But conspicuously absent from the list is ANC Women's League President Winnie Madikizela-Mandela. She has apparently not applied - despite the fact that many of her colleagues advised her to submit an application, which would protect her from criminal or civil action. The Inkatha Freedom Party, like the NP, has an uneasy relationship with the TRC and this has meant that while some IFF members serving prison sentences have asked amnesty, high-profile IFF leaders have not. They include IFF leader and Home Affairs Minister Mangosuthu Buthelezi, who has said there is no need for him to apply. Although former Vlakplaas commander Eugene de Kock has named former senator Philip Powell and IFF Gauteng MPL Themba Khoza in connection with paramilitary activities prior to the 1994 elections, and although Khoza and IFF Gauteng leader Humphrey Ndlovu have been accused of playing a key role in the IFF/ANC clashes which swept Gauteng townships in the 1990s, none of them has approached the TRC amnesty committee. Many of the warlords involved in notorious events, like the razing of Crossroads in Cape Town, as well as in the ongoing murders which characterised life in many peri-urban and rural communities during the 1980s, have not asked pardon. Neither have many of the officials who administered apartheid policy - from the warders who meted out brutal treatment to political prisoners, to the Bantu Administration officials, whose rubber stamps and bulldozers enforced apartheid policy at the cost of many people's lives.

(2152) 09 5/10/97

FORMER police death squad boss Eugene de Kock's decision to ask the Constitutional Court for help in the fight over his transfer to a maximum security prison must surely win an all-time award for damn cheek

This is a man who broke every human rights rule in the book, yet now he is asking the Constitutional Court, supreme guardian of the Bill of Rights, for protection. Don't let the authorities violate my human rights, he pleads

But De Kock is quite right to turn to the Constitutional Court. That is exactly what it was set up to do: safeguard the fundamental rights of all citizens, no matter how repulsive their actions or how thoroughly they had infringed upon the rights of others. And it may well be that the impression given in many reports is correct — namely that someone among the powers-that-be has decided to make a politically-correct example of De Kock

Whatever the merits of his complaint to the Con-

Defending the rights of the nation's right

The new order safeguards everyone, reports CARMEL RICKARD, including those whose past political activities might have put them beyond the pale

ST 5/10/97

stitutional Court, however, De Kock is not the first rightwinger to use the Constitution for his own purposes

During the transition to democracy, the Conservative Party walked out of negotiations over a new political dispensation and refused to participate in the 1994 elections. When the Freedom Front made a different choice and opted to stay in the system, the CP called

their former colleagues "traitors" Just a couple of years down the line, however, when the draft constitution was first presented to the Constitutional Court to be certified, among the objectors queuing up to have their say on the final draft was the Conservative Party. Two other organisations which help warm the right end of the political spectrum, the Volkstaatraad and the

Transvaalse Landbou-Unie, also wanted to be heard

Then there is the case of Johan Walker, part of a conservative civic grouping whose members refused to pay the lights and water bills sent to them by the Pretoria city council. When it came to the crunch, however, Walker's political view did not stop him invoking the Bill of Rights. Initially he had said that he would

pay only the same flat rate which the council was still charging residents of the formerly black townships of Pretoria. Walker lost in the magistrate's court, but when the decision went to the high court on review, Walker successfully cited the new Constitution and, in particular, alleged that his right not to be discriminated against had been infringed by the council's two-stream system

There is also the case of the retired police brigadier and colonel named by the truth commission as allegedly involved in gross human rights violations. The officers claimed they had not been given enough time to prepare a defence. They went to the courts claiming their constitutional rights had been violated — and won

Former CCB member Laffras Luitingh also felt the Constitutional Court was the best route to secure his rights. Luitingh, described by the court in its judgment as "a former member of a military unit then engaged in clandest-

cont ↓



APPEALING: Eugene de Kock at this week's TRC hearings, is one of several defenders of the old order seeking protection from the new Picture: COETZEE GOUWS

tine activities, but now disbanded", was suing the minister of defence for a golden handshake to which he said he was entitled under a contract between them. The minister claimed Luitingh had brought the claim too late, and so Luitingh

asked the Constitutional Court for help.

At about the same time, the South African Foundation for Education and Training which promotes mother-tongue education, particularly in Afrikaans, as well as a "Christian value system", joined

in complaints against the Gauteng Education Bill and challenged it in the Constitutional Court.

Other conservative or fundamentalist Christians contested the certification of the draft constitution on the basis that it could permit abortion. Having failed to stop the new abortion legislation, they are now bringing high court action for abortion to be declared unconstitutional, citing several sections of the Bill of Rights including the right to life, the right to freedom and security of the person.

What lies behind this tendency of conservative groups and individuals to use the Constitution, the Bill of Rights, the Constitutional Court and the other higher courts to fight for their rights? And is it a good thing?

Unisa law professor Hercules Booyen, who appeared for the Volkstaatraad in the first certification case, says that South Africa ought to be glad of the trend. "It is a case of real politik. There are only three options: do nothing — which is completely unacceptable, take up arms, or work within the parameters of the Constitution. It is still regarded as an alien Constitution which is suppressive of the aspirations of the Afrikaner. But the people realise they have to be realistic and work within the system as best possible."

He denied that it meant that these groupings were coming to "accept" the Constitution.

Conservative Party spokesman on law and or-

der and prisons, Daan du Plessis, said that his party had not contested the elections "because we thought that the Afrikaner people were being sold down the river".

"But as far as the Afrikaner people are concerned, wherever we can use the structures provided by the Constitution to safeguard the interests of the Afrikaner people we will use it."

"This does not mean that we feel more part of it. We want the whole system to be changed and we

'Not only people who are desperate like De Kock, but even groups like the Volk, are starting to rely on the Constitution'

will use every possible means to bring this about."

Corné Mulder, Freedom Front spokesman on constitutional affairs, believes the tendency to use the Constitution is sometimes a matter of opportunism and because the person involved has no choice — as with De Kock perhaps. For others it is a question of coming to realise that the reality of South African life has changed.

"If you believe in constitutional democracy, then what is happening is

a good thing," he said.

Stellenbosch law professor Lourens du Plessis says the use being made of the Bill of Rights by conservative groups is exactly what such a document is for "to protect weaker groups in society".

"It is also a good thing because it means these groups are buying into constitutionalism. They cannot still say they reject the whole system, they are now part of it." But Du Plessis is concerned that there could be a problem in the future if the trend continues, since it could increase polarisation and ultimately discredit the Bill of Rights among the majority of the people. The court must ensure that the socio-economic rights laid down in the Bill of Rights are also given expression. If these rights are seen to be working for the marginalised in society, it would further promote the legitimacy of the Bill of Rights.

Christof Heyns, the deputy director of the Centre for Human Rights at the University of Pretoria, said that conservative groups initially reluctant to have anything to do with the system now had "one leg in it" as they were working within the system so often. They are using the court and in a way are buying into the system.

"Not only people who are desperate like De Kock, but even groups like the Volkstaatraad which have other options are starting to rely on the Constitution and its fundamental rights. It is a wonderful thing and shows the strength of the Constitution that it offers these possibilities. The strong emphasis on individual rights in the Constitution ensure that minorities feel they have this protection. It is almost a human rights dream come true."

At the time of negotiations to end apartheid many people on the far right would not acknowledge the protective role that a Bill of Rights could play. And while many are still not fully acknowledging this reality, their actions are saying what they are reluctant to put into words — that the constitutionalism of the new order promises protection for everyone, including those whose past political activities might otherwise have put them beyond the pale.

ST 5/10/97
(052)

Legal Aid Board in cash crisis

ARG 6/10/97 (252)

Pretoria - The Legal Aid Board will hear in a fortnight whether it will be granted an additional R305 million from the Department of Justice to ward off a crisis with lawyers owed millions of rands in fees.

The cash-strapped board, which received a budget of R156,5-m this year, is still awaiting R35-m it applied for earlier this year from

the Department of Justice to cover the costs of taking on extra constitutional cases.

Despite a request handed to the Department of Justice asking for R200-m, nothing was allocated.

Paul Setsetse, spokesman for Minister of Justice Dullah Omar, said the Treasury committee would decide on additional funding on October 14.

Day of the generals dawns as truth commission probes armed

Stephen Lauffer

THE truth commission embarks on two weeks of crucial hearings tomorrow during which the state security council, police, defence force and the military wings of anti-apartheid organisations will come under scrutiny.

Several high-profile amnesty applicants, including former police and SA Defence Force (SADF) generals and commanders of nonstatutory forces, are expected to testify as the commission endeavours to refine its understanding of structures and motivations behind the armed conflicts of the apartheid era.

Among those due to testify are Deputy Defence Minister Ronnie Kasrils, former SADF chief Constand Viljoen, former special forces commander Joep Joubert, former senior SA Police officials Johan van der Merwe and Johan Coetzee, and former SAP major Craig Williamson.

Williamson has applied for amnesty for the 1982 murder of anti-apartheid activist Ruth First, the 1984 bombing deaths of Jeanette Schoon and her daughter Katryn, and the bombing of the African National Congress's office in London.

Commission sources said Williamson and other SAP applicants had been more forthcoming on the details of cross-border activities than their SADF counterparts. Williamson had given significant detail on the chain of command behind his operations.

One source said it was possible the commission would waive the confidentiality clause on the amnesty applications of the six former SAP officers appearing and make them public.

The commission would seek greater detail of the motivation and planning of such SADF cross-border raids as the attack on the Cassinga camp from wit-

nesses, including Viljoen, who commanded the army at the time. Joubert had provided a great deal of detail on the reasoning behind the formation of the SADF killer unit, the Civil Co-operation Bureau, in a "very explicit amnesty application". It was hoped he would shed more light on the unit's activities beyond SA's borders.

Representatives of the old SADF, who had so far failed to satisfy the commission with their responses to questions, could "feel quite uncomfortable" at the hearing, one source said. The commission wanted to know more about policies on the elimination of

apartheid opponents and support for surrogate armies in other states.

Tomorrow's hearing would focus on the Azanian People's Liberation Army (Apla), including its attacks on civilians after the release of Nelson Mandela from prison in 1990 and human rights abuses in its camps outside SA. Apla had so far not been forthcoming on in human rights violations at its camps. It was known there had been assassinations, and former commanders would be asked for details.

Former Umkhonto we Sizwe operatives, including Kasrils, are due to testify on Friday.

PD 110199 (262)

ST. IFO

Judge quizzed on his expenses claim

R20 000 while living at home

AKG 7/10/97 (252)

DENNIS CAVERNELIS
STAFF REPORTER

A judge who claimed R20 000 expenses while on circuit court duty but living at home was grilled by the Judicial Services Commission during an interview for a position on the bench of the Supreme Court of Appeal.

Mr Justice Deon van Zyl, who was appointed to the bench in 1985, was one of four candidates interviewed for the post yesterday.

The commission chairman, Chief Justice Ismail Mahomed, questioned Judge Van Zyl about a letter from the Cape Judge-President, Mr Justice Gerald Friedman, about his expense claims while on circuit court duty.

Judge Van Zyl said he had been told by Judge Friedman that it "was not proper to put in claims if you are staying with family or friends and not in a hotel".

Judge Van Zyl said his claims while he was on circuit court duty in Worcester and George from 1994 amounted to R20 000 and based on



Judge Deon van Zyl: 'sort of bonus'

what Judge Friedman told him, "I was prepared to make a repayment".

He said that while he was on circuit, he sometimes stayed at his holiday home in Sedgefield or returned to

his own home in Gordon's Bay.

On advice from the chief state legal adviser, he learned he was "quite entitled to make those claims".

Asked by the commission if he considered it "morally reprehensible" to claim the R20 000, he said "If that's morally reprehensible, hundreds of judges have been morally reprehensible. I claimed what I was entitled to".

"When you are first appointed as a judge and these kind of things come up, you discuss it with senior colleagues".

"I was told that as long as you are away from your headquarters and you don't claim more than your allowance, you can put in a claim and it would be fine. It would be regarded as a sort of bonus".

Justice Minister Dullah Omar said that according to regulations, judges were entitled to claim a subsistence allowance of R300 for every 24 hours they were away from their headquarters.

The interviews for the appeal bench continue today.

PAC chief sets out causes of armed conflict

'Time for forgiveness'

The liberation movements' armed struggle was a reaction against the humiliating policies of the apartheid regime, Pan Africanist Congress president Stanley Mogoba told the Truth Commission today.

Speaking at the start of the commission's four-day hearing into the role of armed forces in the political struggle between 1960 and 1994, Bishop Mogoba said that at the time of its founding in 1959 the PAC had propounded non-racialism and roundly condemned tribalism, ethnic obsession and exclusive nationalism.

"Pan Africanism was embraced and raised hopes of a United States of Africa taking its place among the great countries and continents of the world"

Tragically, the Sharpeville killings of 1960 and the Poqo uprisings had heralded a frightening new trend, and "Heerenfolkism" (white Afrikaner supremacy) had gained the upper hand and brought even more racial intolerance and polarisation

Giving details of his own detention, the bishop said he had always supported the Truth Commission process, "even when personal hurt and humiliation was experienced"

JOHN
YELD



ON THE TRUTH COMMISSION

"I am convinced this country can never break out of its cocoons of hatred and bitterness unless we reveal all the truth and seek forgiveness. The greater responsibility naturally lies with the perpetrators of apartheid"

Bishop Mogoba said it was in this spirit that the PAC had extended a hand to the congregation of St James Church, scene of the 1993 massacre inflicted by PAC members, "so we can bury the painful past and help to bring reconciliation and healing to our members and to our beloved country"

He was planning overtures to the family of murdered US student Amy Biehl "and all other families who are hurting and who were victims of a dreadful, unfortunate racial war"

Apla has 'no regrets' over St James

JOHN YELD
ON THE TRUTH COMMISSION

The Azanian People's Liberation Army (Apla), the armed wing of the Pan Africanist Congress, does not regret its attacks on targets like St James Church, the King William's Town golf club and the Heidelberg Tavern and sees no need to apologise for such attacks.

This was stated to the Truth Commission's armed forces hearing today by former Apla commander Brigadier Dan Mofokeng.

In an opening statement at the start of today's hearing about Apla, Brigadier Mofokeng said Apla had never distinguished between "hard" and "soft" targets. This was because the apartheid govern-

ment had armed "the entire white South African society" making every white citizen "a member of the security establishment".

"It would therefore be a fallacy in the context of white South Africa to talk about innocent civilians. Military-trained and armed citizens defy the definition of civilians."

"To us an attack on a trained and armed individual was a military operation. It is in this context therefore that Apla did not have the burden of or a problem with the so-called 'soft or hard target'."

"All that mattered was the political and psychological benefit that the organisation would derive from such military operations."

Brigadier Mofokeng said the killing of "genuine African civilians" had intensified

during incidents such as the Boipatong massacre, while white South Africans had continued to live in "tranquillity".

Apla had therefore decided to intensify the armed struggle, both for reprisal and in self-defence.

"The only requirement was proportionality. It should therefore not surprise anyone that targets like the St James Church, King William's Town golf club and Heidelberg Tavern were selected. The Apla leadership takes full responsibility for these operations. Apla forces who carried out these operations followed the directives of their commanders and these were from the highest echelons of the military leadership."

See page 5



LEON MULLER
No regrets: Stanley Mogoba tells the Truth Commission of the humiliation of apartheid

Camp executions admitted by Apla

(252)
The Azanian People's Liberation Army (Apla), former armed wing of the Pan Africanist Congress, has confirmed to the Truth Commission that some of its members in Tanzanian camps were executed for mutiny and "destabilisation".

But during their presentation on the first day of the commission's armed forces hearing, about 20 members of Apla's high command insisted these deaths could not be described as murders, as the commission allegedly had done

"If this is not a deliberate attempt to criminalise Apla, what is it?" they asked in their submission

They also said Apla had never had any detention camp, prison or similar institution and that no Apla soldiers could genuinely claim to have been subjected to systematic torture or other human rights abuses, although there had been "one or two" beatings

The Apla officers said they did not want to name those executed, as some of the families had not yet been notified, but they undertook to provide a list and asked the commission to help trace the families.

They did not disclose how many people had been executed, but informed sources later suggested there had been about 10

The hearing was marked by angry accusations and rhetoric from the Apla representatives

PAC secretary-general Mike Muendane claimed it appeared the

ARG 8/10/97
Truth Commission was highlighting incidents involving whites and he took exception to questions posed by the director of the commission's investigative unit, advocate Glenn Goosen, saying Apla was having to justify its actions in moral terms

Apla director of operations Letlapa Mphahlele was applauded when he accused the commission of being "more concerned with white lives".

He added "The Truth Commission is all out to criminalise our struggle. This whole farce, this whole circus, is doomed for failure. The whites are still firmly in power"

Asked whether the PAC leadership had condoned Apla's attacks such as those on St James Church, the Heidelberg Tavern and King William's Town golf club, Apla's director of military intelligence, Mbulelo Fihla, said there had been a split in the PAC's leadership during the 1990s

"It is a fact, so when we reported (about these attacks), there were individuals who said it was an error" However, such attacks had not been condemned by the collective leadership

Colonel Fihla also confirmed that Apla had been under political pressure from some blacks to take revenge action for violence such as the Boipatong massacre in 1992.

"We could have gone for crèches, we could have gone for homes for the disabled. If we had gone for nursery schools, we wouldn't have been able to sit here proudly today," he said

IFP war of words finally boils over

FW purged army 'over rumours'

ALY 8/10/97 (2 of 2)

Third Force allegations meant 23 officers had to go

ARGUS CORRESPONDENT

Pietermaritzburg - The long simmering war of words between the IFP and the Truth Commission finally boiled over last night when KwaZulu Natal Premier Ben Ngubane filed an affidavit with the public protector accusing the TRC of anti-IFP bias and requesting an investigation.

In a statement issued last night, Dr Ngubane said he had formally called on Selby Bagwa to investigate the TRC's anti-IFP bias, saying the organisation had violated the party's constitutional rights and created political conflict in South Africa.

He said the IFP had come to the "inescapable conclusion" that certain actions of the TRC constituted a hindrance to the achievement of its statutory objective of promoting national unity and reconciliation.

"I submit that the activities of the TRC have been conducted in such a manner as to damage the image of the IFP and the various parties/institutions in South Africa which constitute opposition to the majority party," Dr Ngubane said.

Central to the conflict between the IFP and the Truth Commission is the recent Caprivi trainees' hearing in Durban, the seizure by the TRC of documents collected by former IFP stalwart Walter Felgate, and TRC hearings in Pietermaritzburg on the unrest in the Edendale area.



ON THE TRUTH COM-

Former state president FW de Klerk had acted against 23 senior officers of the then SA Defence Force after hearing untested allegations about their involvement in Third Force activities and because of political pressure from the United States, former SADF head Constand Viljoen told the Truth Commission today.

General Viljoen, heading a delegation of senior SADF officers on the second day of the commission's four-day hearing into the role of the armed forces in political conflict, denied that the SADF had been involved in any such activities.

He said that in December 1992, Mr De Klerk had appointed Lieutenant-General Pierre Steyn to investigate allegations of Third Force activity by the SADF.

This had followed a raid by the Goldstone Commission on offices of the Directorate of Covert Collection (DCC) of Military Intelligence.

When General Steyn reported to Mr De Klerk that there was evidence of illegal activities, he had relied



Generals: Kat Liebenberg, left, and Georg Meiring at the TRC hearing today

mostly on information from the SADF's counter-intelligence unit and from the National Intelligence Service, General Viljoen said.

This information related to allegations that some sectors of the security forces, such as DCC, Special Services, 7 Medical Battalion and the Civil Cooperation Bureau were involved in Third Force activities such as assassinations, the Bojpatong massacre, train massacres and the stockpiling of arms abroad.

However, a parallel investigation by Lieutenant-General Alwyn Con-



LEON MULLER

Former SADF head: general Constand Viljoen looks pensive

SA Police, ordered as part of Mr De Klerk's instructions to General Steyn, had found no evidence that DCC members had been acting outside the law, General Viljoen said.

Despite this, Mr De Klerk had instructed General Kat Liebenberg, then chief of the SADF, to act against the 23 officers in order to "purify" the SADF.

General Liebenberg had confirmed that Roelf Meyer, then National Party chief negotiator at the Code of SA talks, had been on an official visit to the United States at the time.

"He apparently phoned the state president (Mr De Klerk) on two occasions from the USA and probably emphasised the US's requirement to see the state president act forcefully," General Viljoen said.

"The Steyn report then presented the South African government with the opportunity to 'purify' the SADF and send a signal to those opposed to a negotiated settlement."

But despite the seriousness of the allegations, no evidence had ever been presented to back up the allegations of Third Force activities, General Viljoen said.

Three of the 23 officers placed on

early retirement or dismissed had taken civil action against the government and had won substantial damages. Another had repeatedly asked to be court-martialed so that he could clear his name, but he had not had any response, he said.

"It is clear that the major role-players, as well as the 23 officers, were the victims of unsubstantiated reports and rumours, more likely emanating from dubious perceptions than from hard realities, or possibly from disinformation provided by the political opponents of the then South African government."

THERE IS NOTHING TO APOLOGISE FOR'

Apla admits to executing cadres Ntsebeza cools down angry pair disillusioned by whites

ET 8/10/97

252

THE SO-CALLED murders that the TRC has chosen to sensationalise are acts that Apla will never be ashamed of, an Apla delegation told the TRC. **ROGER FRIEDMAN** reports.

THE Azanian People's Liberation Army (Apla) publicly confessed for the first time to executing some of its cadres, revealed that it made no distinction between soft and hard targets, and took responsibility for all its operations including the St James Church massacre.

But the top-ranking Apla delegation, which appeared before the Truth and Reconciliation Commission yesterday, fell short of naming those who were executed — and on whose order — and made no mention of being infiltrated by elements of the apartheid security apparatus despite widespread speculation in this regard over a number of years.

Brigadier Dan Mofokeng said while Apla could not boast of a perfect human rights record, "the so-called murders that the TRC has chosen to sensationalise and blow out of proportion, according to the questionnaire you sent us, are acts that Apla will never be ashamed of".

He said it was shocking to note that the TRC referred to these deaths as "murders", and used terms such as "teachery" and "cruelty" in its correspondence. A number of deaths did occur in PAC camps (Cadres died of natural causes (particularly malaria), accidents (particularly vehicular), criminal murders (in which the law took its course) and executions. A limited number of Apla mem-



OLD GUARD: Former senior members of the Apla military commission Joe Mkhwanazi and Enoch Zulu yesterday

bers were executed, mostly for acts of destabilisation, on the orders of the Apla commander who in his own capacity determined the individuals who had to perform their tasks, Mofokeng said.

Apla preferred not to provide a list of names of the dead as some families were yet to be informed of the fate of their loved ones. Mofokeng said it was a fallacy to talk of "innocent white civil-

ians" because the white populace was highly armed and militarised.

"It should therefore not surprise anyone that targets like the St James Church, King William's Town golf club and Heidelberg Tavern were selected. The leadership of Apla takes full responsibility for all these operations. We do not regret that such operations took place and there is nothing to apologise for."

Mofokeng also denied that Apla members had committed armed robberies, although "reposition units" had targeted financial institutions to finance the struggle.

"Robbers are those who steal and defraud and not those who repossess what rightfully belongs to them," he said. Today the South African Defence Force has its say

ROGER FRIEDMAN

ONLY a pair of timeous interventions by Pan Africanist Congress-nominated commissioner Mr Dumisa Ntsebeza yesterday stood between the TRC and a guns-blazing Azanian People's Liberation Army (Apla) intent on accusing the commission of victimisation.

Apla was the PAC's military wing. PAC secretary-general Mr Mike Muendane, representing the party in the absence of its president, Rev Stanley Mogofoa, looked to be on the verge of exploding in response to persistent questioning by commission members about whether operations such as the St James Church massacre were condoned by the party's political leadership.



Muendane said he was gaining the impression that the commission was only interested in operations which affected white people.

This prompted Ntsebeza's first intervention, to remind the delegation that the proceedings did not constitute a war between the commission and the former liberation army. Ntsebeza said he was concerned at the direction the evidence was taking, specifically the suggestion that the TRC was involved in an Apla witch-hunt.

Apla and all other organisations appearing before the commission should expect robust questioning as the commission was, after all, an information gathering exercise.

Later, Apla's former director of operations Brigadier Letlapa Mphahlele told the commission it was more interested in "white lies" than the truth, and swore not to appear before the commission's

amnesty committee before people such as former state president FW De Klerk and General Magnus Malan "come and own up for their evil deeds".

He questioned the commission's rejection of amnesty applications of Apla operatives Messrs Shadrack Bhegu, Raymond Rha, George Nongabe and Daniel Rogers, which amounted to "criminalising our people".

"I dare say this whole farce, this whole circus, is doomed to failure," said Mphahlele. "You cannot reconcile the dispossessed with the dispossessor, the whites are still in power and calling the shots."

Once more Ntsebeza stepped in, addressing Mphahlele as Comrade Letlapa, and reminding him that although the commission was controversial, it had been established in terms of an agreement which included PAC members

Inkatha lays complaint against TRC

(252)

POLITICAL STAFF

NEWS 10/97

The long simmering war of words between the IFP and the Truth Commission finally boiled over last night when KwaZulu Natal Premier Ben Ngubane filed an affidavit with the Public Protector accusing the TRC of anti-IFP bias and requested an investigation into the matter.

In a separate affidavit the Public Protector was asked to investigate KZN TRC chairman Richard Lyster's conduct. Inkatha, through its president Dr Mangosuthu Buthelezi, has been hinting for the past few weeks that it would approach Public Protector Selby Baqwa to restrain the TRC's activities.

In a statement released last night Dr Ngubane said he had formally called on Baqwa to investigate the TRC's anti-IFP bias, saying the organisation had violated the party's constitutional rights and created political conflict in South Africa.

He also asked Baqwa to finalise the investigation by the end of the year before the TRC's mandate expires. He said the IFP had come to the "inescapable conclusion" that certain actions of the TRC constituted a hindrance to the achievement of its objective of promoting national unity and reconciliation.

Central to the conflict is the recent Caprivi framees hearing in Durban, the seizure by the TRC of documents collected by former IFP stalwart Walter Felgate who has since defected to the ANC, and the TRC hearings in Pietermaritzburg on the seven-day war in Edendale.

► More TRC reports

Attacks by grassroots cadres caught Apla high command off

Stephen Laufer

CAPE TOWN — Azanian People's Liberation Army (Apla) leaders yesterday came close to admitting that they had lost control of their cadres on the ground in the early 1990s which saw bloody attacks on a church, golf club, and tavern in the Cape.

A shortage of political commissars and conflict between parallel leadership structures within the Pan Africanist Congress (PAC) had been behind public confusion over whether

the party had supported the attacks on mainly white civilians, the truth commission heard

Some leaders had believed the attacks had been an error, but there had never been a collective decision to declare them wrong, former Apla military intelligence director Mbulelo Fihla said. It was ultimately up to the commission to decide whether the leadership had condoned the attacks

After intense questioning, former Apla commander-in-chief Johnson Mlambo said grassroots cadres had

mounted attacks which marcially caught us a little off guard

Apla's high command had been "at a loss" when it first heard of the attack on the King William's Town golf club but had accepted the motivation and the reasoning behind the later attacks on the Heidelberg Tavern and St James' Church in Cape Town

PAC general secretary Mike Muedane said he was "not discounting the possibility of mistakes", and the leadership regretted and took responsibility for them while not apologising for

SD S10194

the armed struggle. PAC leader Bishop Stanley Mogoba hoped to conduct a reconciliation service in St James' Church and would visit the family of murdered US student Amy Biehl

Mlambo said Apla's high command accepted that the actions had been in response to state-sponsored violence

Former Apla commander Dan Mofokeng said the PAC's armed wing had executed mutineers while in exile and had administered disciplinary beatings. While political education had established a moral code in Apla camps,

guard

there had been no awareness of the Geneva conventions on guerrilla war.

The 25-strong Apla delegation said it preferred not to name those executed some as long ago as the late 1970s — until the next of kin had been informed. It asked the commission to assist in locating relatives.

An Apla group tasked with robbing banks to fund underground activities had been code-named "beauty salon". Many of its cadres were still in jail, and the organisation asked for their amnesty applications to be expedited.

Everyone knew of SADF murders, general tells truth commission

Stephen Lauffer

CAPE TOWN — Plans by SA Defence Force (SADF) special forces for covert action, including murder, against apartheid opponents had been approved over a drink at an Armscor function in mid-1986, the unit's former commander told the truth commission yesterday.

Retired Maj-Gen Joep Joubert, who has applied for amnesty for the deaths of 12 activists said it had been difficult to discuss the plan formally with then

SADF chief Jannie Geldenhuis, and he had approached him at the function

It was possible Geldenhuis had understood the specifics differently, but he had never voiced principled opposition to the "elimination" of opponents even after killings became known. Geldenhuis' lawyer later said the former SADF chief denied authorising the murder of anyone.

Two five-man covert units had been deployed, one each within the SA Police's (SAP's) Witwatersrand and Northern Transvaal command areas

The group later became the Civil Co-operation Bureau (CCB)

Current defence force chief Gen Georg-Moring said later that it was "very difficult" to document CCB activities after early 1987 because all operational records had been destroyed following an internal audit

Joubert said "everybody of importance," including the state security council, had accepted the need for unconventional methods in the fight against apartheid's opponents. He said it would have been very strange if the

Joubert had not known

Joubert was giving evidence at a commission hearing on SA's past military conflict. Former SADF chief and Freedom Front leader Gen Constand Viljoen said there was mistrust among former soldiers towards the commission, and bitterness among senior officers at the sacking of 23 of their colleagues by then President FW de Klerk following allegations of third force activity steered from within the military. Viljoen said there was no concrete evidence of illegal SADF activities, but

Joubert

BD 8/10/97

Continued from Page 1

preferred word, "eliminate" Joubert admitted it could mean the killing of anti-apartheid activists "eliminations" had taken place in conjunction with the SA Police (SAP), but new SADF authorisation procedures which put an end to covert activities had been introduced "after a certain incident in late 1986"

This is understood to refer to the murder of Mamelodi doctor Fabian Ribeiro and his wife Florence in December 1986. Joubert is understood to have included the killings in his amnesty application, which is also believed to refer to the poisoning and

burning by special forces of nine young men from Mamelodi recruited on the pretext of being taken to Botswana for training by Umkhonto weSizwe and also the murder of former homelands politician Piet Ntuli.

Joubert said SAP approval had been given for every killing involving the SADF special forces, but a lawyer for former SAP commissioner Johan Coetzee denied this. He said Coetzee also denied Geldenhuis' claim that the police had been aware of special forces involvement in the Ribeiro murders after the fact.

Geldenhuis said he had not deemed it necessary to inform the attorney-general or a police investigation into the murders of SADF involvement because "the information was available to others, too".

Joubert later inadvertently shed light on why this was possible when he challenged the minutes of an SADF planning session with Geldenhuis, on covert activities, saying the memorandum should not have existed

Minutes of certain meetings had never been kept. The document was in any case inaccurate as it referred to murder, a term which "could never have been used"

Asked to define the defence forces

Continued on Page 2

Call to probe 'anti-IFP bias'

CT 9/10/97 (252)

JOHANNESBURG The Inkatha Freedom Party has asked the Public Protector to investigate the Truth and Reconciliation Committee's "anti-IFP bias"

IFP chairperson Dr Ben Ngubane said the TRC had "violated the party's constitutional rights and created political conflict in South Africa"

In an affidavit sent to Mr Selby Baqwa this week, Ngubane said "the IFP had come to the inescapable conclusion that certain actions of the TRC constituted a hindrance to the achievement of its statutory objective of promoting national unity and reconciliation"

The TRC's Durban convener, Mr Richard Lyster, said the IFP affidavit contained "fundamental mis-statements of fact about the TRC's work"

Responding to the claim that the seizure of documents from a library was "an affront to the IFP" and designed to create the perception that a connection existed between human rights violations and the role of the IFP leaders, he said the documents belonged to former IFP stalwart Mr Walter Felgate, who was to appear before the TRC.

A clause included in all subpoenas required witnesses to bring all relevant records. As Felgate had said his records were lodged at a University of Natal library, the TRC had taken "temporary custody" of the documents.

"They are not IFP documents," said Lyster — Sapa

SADF generals turn on each other

(252)

et 9/10/97

ONCE MIGHTY apartheid military strongmen in search of amnesty now confess to issuing several death warrants, but squabble over where the buck stops, reports **ROGER FRIEDMAN.**

THEY tried desperately not to stab one another in the back, but the mounting pressure being exerted through confessions to the Truth and Reconciliation Commission in exchange for amnesty yesterday publicly shattered the perceived unity among apartheid military generals.

Appearing before the commission's human rights violations committee in Cape Town as part of an SA Defence Force delegation, former special forces chief Major-General Joep Joubert said he was authorised to send troops out to kill perceived enemies of the state by the then-chief of the Defence Force Lieutenant General Jannie Geldenhuys — but Geldenhuys told a different story.

It emerged that both generals have applied for amnesty, though it has not been revealed for which crimes. Neither application has been heard. Joubert said he believed that his application was in respect of four cases and 12 deaths, but appeared uncertain of his death-toll.

Some of the requirements to be met in order for applicants to be granted amnesty are that they make a full disclosure about crimes for which they apply, and they must be found to have been acting with authorisation.

If Geldenhuys says he did not authorise sending out the dogs then Joubert's application could be dead in the water.

His woes were further compounded when legal representatives for military General Ian Gleeson and police General Johan Coetzee distanced their clients from some of Joubert's contentions — like rats jumping off a sinking ship, cynically-wounded members of the audience were heard to observe.

Special Forces fell under Joubert's command from 1985 to 1988. Comprising a number of units, including the notorious Civil Co-operation Bureau (CCB), Special Forces' tasks included conducting clandestine and covert operations both within SA and elsewhere.

He said the primary function of Special Forces, when he assumed command, was intelligence-gathering. Then the role was expanded. Around the time of the 1986 declaration of the state of emergency he received instructions from Geldenhuys to devise a plan to expand their operations inside the country in support of the police.

The plan he came up with was to deploy men to regions for joint operations



FATAL ORDERS: Former special forces chief Major-General Joep Joubert said he was authorised to send operatives to kill enemies of apartheid by the then-chief of the Defence Force Lieutenant General Jannie Geldenhuys

PICTURE: BENNY GOOL

against anti-apartheid forces, by unconventional and revolutionary methods. The three areas identified as most acute were Witwatersrand, Northern Transvaal and the Eastern Cape, but he only had sufficient personnel to service the first two.

In co-operation with the local military and security police brass, targets were chosen to "regain control".

"Individuals who were eliminated were identified as people playing a serious part in the revolutionary struggle or who could potentially be regarded as a serious threat in the future," he said.

Asked whether Geldenhuys approved the plan, Joubert's response was by no means straightforward — and neither was Geldenhuys' explanation.

Joubert said everyone was frantically busy at the time and it was very difficult to discuss the plan formally with the head of the Defence Force.

"One evening at a function I explained the plan in broad terms to General Gelden-

to devise a "procedure" for authorisation. The principle that people should continue to be eliminated was "accepted" by people "at the highest level" including politicians, which was why a procedure had to be developed.

Commissioner Dumisa Ntsebeza "Do I understand your answers to say that what was discussed between you and the head of the Defence Force was procedure, not principle that in the pervading climate it was necessary to eliminate?"

Joubert "Yes."

Commissioner Richard Lyster "Does eliminate mean kill?"

Joubert "I think we should be very careful when we look at the word eliminate. I can eliminate a person by arresting him, I can neutralise him by arresting him. Each case must be dealt with on its own merits. If you could eliminate a person by not killing him then you could arrest him. I don't think the generally-accepted term eliminate means kill."

Thereafter Geldenhuys testified "I told General Joubert he must prepare himself to give effective support to the police when needed. I not only said it to General Joubert but I told it to the whole army, to the whole air force. I told everyone we must give our support to the police and it must be of a high quality."

Ntsebeza asked whether he felt Joubert's interpretation of his alleged authorisation as "reasonable", but Geldenhuys responded that he did not feel the question was "reasonable" in the light of Joubert's amnesty application.

He said Joubert had only sketched the bare bones of his plan at the function in question, and admitted that he said it "sounded good".

Geldenhuys said he did not report Joubert's involvement in any killings to the police. "I did not want to meddle in the matter when it came to my attention for the reason that there was already a police investigation on the go. I thought the best way to handle the situation was to let justice take its course. Establishing a court martial would have interfered with the normal course of justice."

Joubert is believed to be seeking amnesty for the murders of 10 youths at Nietverdiend near the Botswana border, the killing of KwaNdebele cabinet minister Pieter Ntuli, and ANC activist Dr Fabian Ribeiro and his wife Florence, assassinated in 1986.



General says he knew CCB killed Ribeiros

Star 9/10/97 (252)

Geldenhuis tells TRC he was told of murder of Mamelodi doctor and his wife, but did nothing to bring culprits to book

By **ROBERT BRAND**
Cape Town

Former South African Defence Force chief General Janne Geldenhuis knew that members of the Civil Cooperation Bureau had murdered Mamelodi doctor Fabian Ribero and his wife Florence in 1986, but did nothing to bring the culprits to book.

The Ribeiros were murdered in accordance with a plan allegedly approved by Geldenhuis - to use CCB operatives in tandem with police to "eliminate" perceived enemies of the

state, it emerged before the Truth and Reconciliation Commission yesterday.

Major-General Joep Joubert, former commander of Special Forces, which included the CCB, told the TRC that Geldenhuis had instructed him to support the security police in operations against anti-apartheid activists.

Joubert, who has applied for amnesty for the Ribero murders and 11 other killings, said he had proposed the "elimination" of activists, and Geldenhuis had approved his plan during an informal discussion. In his amnesty application,

he also alleges that he had discussed the Ribero murders with then police commissioner General Johann Coetzee.

Coetzee has denied any knowledge of criminal activities by the CCB.

Testifying after Joubert yesterday, Geldenhuis admitted that he had been informed about Special Forces' role in the Ribero "incident". He said he had been informed by his second-in-command, Lieutenant-General Ian Gleeson, that the police had already been told about Special Forces' role. Geldenhuis has also applied

for amnesty, but his legal representatives have refused to give details of incidents for which he wants amnesty.

Joubert has also applied for amnesty for the murder of the "Nietverdiend Ten" and Kwa-Ndebele cabinet minister Piet Ntuli.

Undercover security policeman Joe Mamasela, pretending to be an Umkhonto weSizwe member, infiltrated the "Ten", a group of activists from Mamelodi, and promised to help them get to Botswana for military training. But, they were taken to a

road near Zeerust, drugged and blown up in their minibus.

Brigadier Jack Cronje, former commander of the Northern Transvaal security branch, lifted the lid on the murders at the TRC in November when he said he was involved.

Ntuli was killed by a car bomb. A General Schutte was appointed to investigate the murder. Cronje told the TRC, also in November, that Ntuli led a right-wing vigilante group, but was murdered because Cronje suspected he was a double agent for the ANC. No one was brought to trial

for the murder.

Dr Fabian Ribero and his wife Florence were shot dead in their Mamelodi home in 1986.

Cronje told the TRC in November that Commandant Charl Naudé of Special Forces had identified the Ribeiros as targets for "elimination".

He said Special Forces commander General Joep Joubert, SADF chief of staff General Ian Gleeson, CCB commander Colonel Joe Verster and General Johann Coetzee all knew about the murders and were involved in the cover-up that followed - Staff Reporter

Ex-SADF chief admits murder cover-up

Ribeiro pair's death among 12 assassinations, hearing told

RAY 9/10/97

(252)



JOHANN YELD

ON THE TRUTH COMMISSION



An officer's honour - former SADF chief General Jannie Geldenhuys is sworn in

He had reported this incident to the acting chief of the SADF, Ian Glicson, who had reported it to General Geldenhuys when he returned from an overseas visit. General Geldenhuys had immediately called a meeting at which a proper procedure was established for granting approval from the "highest level" for joint operations with police.

But no further operations involving Special Forces had taken place, General Joubert said. Asked whether the cabinet would have known of these joint covert operations, he replied "It would have been very strange very strange, if



Pondering the past, former SADF Special Forces head General Joep Joubert yesterday

LEON WALLER

Commission says SADF replies 'not satisfactory'

Most of the replies by the former Defence Force to TRC questions were described by commissioner Richard Lyster as "highly unsatisfactory and disingenuous".

Mr Lyster hit out during the appearance of Georg Meiring, former SADF chief and head of the new National Defence Force, at the TRC's armed forces hearing yesterday.

General Meiring agreed to be available to provide clarity on the SADF's written responses to questions by the commission, but after the SADF's first submission last year.

The general, who said there was "distrust" of the commission by former SADF members, said he had facilitated the drawing up of answers.

One of the answers the commission found unsatisfactory related to the so-called Gwonggoza documents, found in a Renamo camp in Mozambique, which appeared to indicate that SADF support for the Mozambican resistance movement continued illegally after the signing of the Nkomati Accord.

General Meiring said he was involved in investigations of the "many allegations" about SADF covert support for Renamo. None of these allegations had been proved.

Dumisa Ntsebeza, head of the commission's investigative unit and acting chairman commented "I know people who would say that is a laughable response". General Meiring replied, "That is your prerogative."

murders were committed by two Angolans flown in specially for the operation by the Special Forces.

Yesterday General Joubert said that in mid-1986 he had been ordered by General Geldenhuys to prepare a plan whereby his Special Forces could help police respond to the changed tactics and heightened activity of the liberation movements.

His plan included the deployment of two units of his men in the problem areas of the Northern Transvaal and Witwatersrand, to help police "eliminate" - kill - selected targets such as ANC leaders and their supporters, among other covert operations.

General Joubert said he drew up the plan and spoke to General Geldenhuys about it in broad terms at a social function. General Geldenhuys had remarked, "It sounds good".

"I interpreted that as permission from him to go ahead. Whether he would interpret it like that is another matter. I was under the impression it had been approved."

General Joubert said he had always assumed that operations carried out under this plan had also been approved by the police hierarchy, but after one incident - understood to be the Ribeiro murders - it had become

apparent this was not the case. He had reported this incident to the acting chief of the SADF, Ian Glicson, who had reported it to General Geldenhuys when he returned from an overseas visit. General Geldenhuys had immediately called a meeting at which a proper procedure was established for granting approval from the "highest level" for joint operations with police.

But no further operations involving Special Forces had taken place, General Joubert said. Asked whether the cabinet would have known of these joint covert operations, he replied "It would have been very strange very strange, if

General Joubert is applying for amnesty for these murders, which are understood to include those of "people's doctor" Ribeiro and Mrs Ribeiro, the sister of Pan Africanist Congress founder Robert Sobukwe.

Because of the pending amnesty applications, none of the victims of the Special Forces was referred to by name at the hearing.

But informed sources confirmed that most references were to the Ribeiro murders, which were described as "quite sensational deaths that have lingered on".

The commission has been told in amnesty hearings that the Ribeiro

murders were committed by two Angolans flown in specially for the operation by the Special Forces.

Yesterday General Joubert said that in mid-1986 he had been ordered by General Geldenhuys to prepare a plan whereby his Special Forces could help police respond to the changed tactics and heightened activity of the liberation movements.

His plan included the deployment of two units of his men in the problem areas of the Northern Transvaal and Witwatersrand, to help police "eliminate" - kill - selected targets such as ANC leaders and their supporters, among other covert operations.

General Joubert said he drew up the plan and spoke to General Geldenhuys about it in broad terms at a social function. General Geldenhuys had remarked, "It sounds good".

"I interpreted that as permission from him to go ahead. Whether he would interpret it like that is another matter. I was under the impression it had been approved."

General Joubert said he had always assumed that operations carried out under this plan had also been approved by the police hierarchy, but after one incident - understood to be the Ribeiro murders - it had become



LEON MULLER

'Very angry': Craig Williamson tells the TRC yesterday that politicians understood the security forces' 'full arsenal'

'MK members' seeking amnesty for bomb terror

(252)

ARG 10/10/97

People claiming to be members of Umkhonto we Sizwe (MK), the armed wing of the African National Congress, have applied for amnesty for some of the bombings of Wimpy Bars during the 1980s, the Truth Commission's armed forces hearing was told today.

But former MK commander Mac Maharaj, now Minister of Transport, told the commission the ANC would like to have details of each incident to be able to verify whether those applying for amnesty had indeed been MK operatives on official missions.

Mr Maharaj told the hearing that when the MK high command had first heard details of the Wimpy Bar bombings, they had accepted that some of their operatives could have been responsible. However, they had later begun to suspect that these incidents were "false flag" operations committed by the government's security forces to discredit the organisation.



ON THE TRUTH COMMISSION

Responding to questions by advocate Glenn Goosen, leading evidence for the commission, another senior MK member, Aboobaker Ismail, confirmed that MK members had been responsible for bomb attacks on the offices of the National Party and on Temple Israel in Hillbrow, Johannesburg.

Referring to the attack on the temple, Mr Ismail said the operatives responsible had information that a senior National Party member had been due to appear there the following day.

"It was a pre-emptive attack to prevent his appearing and it was also to send a message - do not collaborate with apartheid."

Mr Ismail said the ANC had

not targeted any religious group. "We had no bone of contention with Jewish people and apologise that it was a temple, but we would take on the regime wherever we could."

Asked how acknowledging the attacks on the NP offices could be reconciled with the ANC's claim at an earlier Truth Commission hearing that the NP itself had not been a target, Mr Maharaj said he was "almost certain" the attacks had been at night when there was little likelihood of casualties.

Mr Maharaj said that in 1988 he would have "eliminated" then Defence Minister Magnus Malan if he had had an opportunity.

Questioned about the bombing of Magoo's Bar in Durban in June 1986, Mr Maharaj said most MK operations had been "correctly carried out" and had had the desired consequences.

However, some operations had "begun to move into the grey" because of faulty intelligence and other causes.

TRC tries to pin down the word 'eliminate'

Star 10/10/97 (252)

Generals take the Humpty Dumpty route,

the same word means different things if you want it to

By **ROBERT BRAND**
Cape Town

It was a day for semantics as Truth and Reconciliation Commission members attempted to wrest the meaning of the word "eliminate" from former police officers yesterday.

The higher the rank of the policeman questioned, it appeared, the more ambiguous the word. At issue was a 1987 State Security Council document in which the "elimination" of opponents of the state was proposed.

Former police commissioners Johan van der Merwe and Johann Coetzee told the commission's armed forces hearing "elimination" in this context could have meant to arrest, to detain, the remove from society and, yes, in some cases, to kill.

But Van der Merwe conceded that lower-ranking policemen could have interpreted government policy as a licence to kill. "I have to agree that the message was conveyed that harsher action should be taken

and that people should be killed. If you tell a soldier to eliminate the enemy, depending on the circumstances, he will understand that he has to kill."

Van der Merwe's predecessor as commissioner, Coetzee, turned to two Afrikaans dictionaries, and said, "eliminate" meant nothing more than "to remove".

"The word per se does not mean when used in connection with a person that that person should be assassinated. But I agree it could have been misconstrued." He added: "I have never given any illegal instruction or unlawful instruction to kill a person."

Van der Merwe and Coetzee's former subordinates, however, were quite clear about their understanding of the word.

"The words 'eliminate' and 'take out' to members on the ground who were in a war situation referred only to killing," said Brigadier Willem Schoon, former commander of the security police's C Section, which included Vlakplaas.

Said former Northern Transvaal security policeman Major Sarel Crawford: "Elimination had only one meaning and that was to kill. If the compilers of the (SSC) document wanted to give any other meaning to the word they would have used another word."

The commission is attempting to determine the level at which the killing of state opponents was authorised. Both Van der Merwe and Coetzee said they knew of at least one instance in which an operation which led to the killing of people was authorised by then minister of police, Louis le Grange.

They said they assumed Le Grange would have reported the operation to the cabinet and the State Security Council.

The operation entailed giving booby-trapped hand grenades to township youths, several of whom died when the grenades exploded before they could throw them at a target.

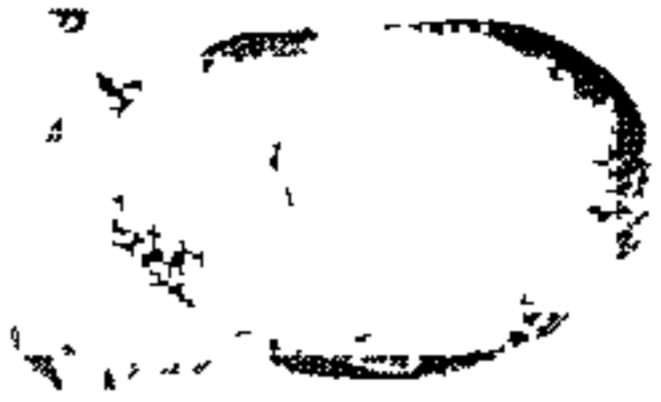
► Police and special forces blame each other

Search for truth on Motherwell

Puzzle of conflicting stories on car bomb plot

(252) ARG 11/10/97

Q



ON THE TRUTH COMMISSION

Port Elizabeth - Were three black security policemen and an informer murdered in a car-bomb blast in 1989 because they were believed to be switching allegiance to the African National Congress and posing a threat to police agents and informers?

Or was it because two of them were blackmailing white colleagues by threatening to reveal their involvement in the 1985 murders of the "Cradock Four" activists unless fraud charges for stealing anti-apartheid funds were hushed up?

These two possible scenarios



Evidence today: Eugene de Kock



Triggerman: Gideon Nieuwoudt

are being sketched at the Truth Commission's hearing, where nine former security policemen are seeking amnesty for the murder of colleagues Glen Mgoduka, Amos Faku and Desmond Mappipa and informer Charles Jack

One of the nine policemen, Gideon Nieuwoudt, has been

convicted of the murders and is on R50 000 bail pending an appeal against his 20-year jail sentence.

Nieuwoudt testified yesterday that he believed the men had switched, or were in the process of switching, allegiance to the ANC. He said this would have seriously jeopardised his network of agents

and informers, that some agents had already been killed and captured as a result of information leaked by the men, and that some of his colleagues were at risk because the men were about to plant a limpet mine on a police vehicle as a token of resistance on Herpes' Day, December 16

Nieuwoudt repeatedly denied there had been another motive for killings he claimed were ordered by his commanding officer, a Brigadier Fanie Gilbert, now dead

He confirmed earlier testimony by Nic van Rensburg, then in overall charge of Vlakteplaas, that he (Nieuwoudt) had told him before the operation that the some of the four to be killed had been involved in the murder of the Cradock Four.

They were threatening to reveal details of this to the ANC

Nieuwoudt also confirmed he was aware police were considering fraud charges against Mr Mgoduka and Mr Sakati for allegedly stealing money sent from overseas to anti-apartheid groups

He agreed with a suggestion by

Eric Ford, for the families of Mr Mgoduka and Mr Faku, that the two policemen would have been able to "blow the whole story" But he repeatedly denied that the main motive was to silence them on the Cradock Four murders

Amnesty committee member Chris de Jager suggested to Nieuwoudt that the two policemen were practising "virtual blackmail".

"They were saying, 'Charge us and we will expose this whole thing'. Wasn't this, what you feared?"

Nieuwoudt replied "I did not see it like this at this stage Gilbert could well have thought that when he took the decision (to kill the men), I don't know."

But Schalk Hugo, representing former Vlakteplaas commander Eugene de Kock, one of the nine seeking amnesty for the killings, has indicated that De Kock will testify that he was told specifically the reason the men were to be killed was the fraud case against them and their threat to reveal the names of the Cradock Four killers

Call to axe wasteful state commissions

R60-m could be saved, says DP

ARG 1/10/97

(252) (SIPA)

CLIVE SAWYER
POLITICAL CORRESPONDENT

At least R60-million of taxpayers' money this year could be diverted to development if the Government agreed to rationalise its wide variety of commissions, says the Democratic Party.

Among the plethora of commissions, just seven have cost a combined R286-million in the past two years, without producing an output to justify the expenditure

There are more than 40 statutory commissions, some set up by the constitution, as well as boards and other organisations performing a wide variety of tasks

"Commissions are draining the fiscus without showing any concrete results," said DP executive director James Selfe

He said several commissions, notably the Human Rights Commission and Gender Commission, had overlapping functions

Salaries were excessive and in

many cases unjustified by the work being done

"Several commissions have found themselves in the ludicrous position of not having funds available to do any work after commissioners' salaries are paid"

There was a lack of formal controls on spending and the Independent Broadcasting Authority was a perfect illustration of the problems which could arise, Mr Selfe said

A report on the seven commissions said South Africa, given its past, needed institutions to protect people from abuse of power by the state and private persons.

However, the report found duplication as well as high living

The Gender Commission was unable to handle inquiries, its functions overlapped with the HRC and it had the same sweeping powers as the HRC, although Gender commissioners got lower salaries

Not much was required of the Youth Commission, but its chairperson was the highest paid of all

The Pan South African Language Board was still in limbo, with its future unclear

The Volkstaat Council, created as an olive branch to a section of right-wing Afrikaners, had cost R10-million, was likely to cost millions more, and it was extremely unlikely a Volkstaat would ever be established

The DP recommended

- Standardising salary packages and putting this in the hands of an expanded commission
- Establishing financial controls, including annual business plans, subject to public review
- Criminalising the abuse of public office
- Encouraging voluntary and part-time service
- Abolishing the Volkstaat Council
- Absorbing the Gender Commission into the Human Rights Commission
- Abolishing the Youth Commission and transferring its functions to the Deputy President's Office



Widowed: Pearl Faku, left, and Doreen Mgoduka, wives of two of the slain security policemen, listen to Gideon Nieuwoudt

LEON MULLER

'PW gave order to take foreign funds from ANC'

PRG 11/10/97

(252)

Port Elizabeth - Former president P W Botha personally ordered money destined for the African National Congress and "leftist" organisations from overseas to be intercepted and channelled into state coffers.

One of the nine former security policemen applying for amnesty for the 1989 Motherwell car-bomb murders told the Truth Commission this is what he heard while in Port Elizabeth to take part in the operation

Marthinus Ras, a warrant officer from Vlakkplaas at the time, states in his amnesty application that during a briefing by his then commander, Eugene de Kock, he was told that two of the security policemen to be killed had been involved in stealing money intercepted from overseas sources

This was not the first time he

had heard of such interceptions, and he had previously been in conversations when it had been mentioned that spy Craig Williamson had channelled funds from the ANC to the police

During the Motherwell operation, Vlakkplaas officers had gone to a braai at the home of police agent Carl Edwards, who had discussed their planned action

"Carl Edwards mentioned that operations to intercept money from the ANC and leftist organisations and to channel this back to the state, were on the direct instructions of P W Botha

"If the (suspect security police) members were to walk over to the ANC and if such instructions and operations were revealed to the ANC, it would have caused great embarrassment to the security police and the government"

SAP chief tortured me, says Maharaj '60 days' of horror

ARLT 11/10/97
(252)

JOHN YELD
ON THE TRUTH COMMISSION

Just one day after denying there was a culture of human-rights abuses in the former South African Police and saying he had never sanctioned illegal police activities, former SAP commissioner Jphann Coetzee was named by Transport Minister Mac Maharaj as having been involved in his torture.

Mr Maharaj told the Truth and Reconciliation Commission's armed-forces hearing yesterday that policemen who had risen through the ranks to become generals and even commissioners had been torturing political prisoners as far back as the early 1960s - and that they had learnt some of their techniques from the Portuguese police and from French police then operating in Algeria.

Mr Maharaj, a senior commander of the African National Congress's former armed wing Umkhonto we Sizwe (MK), said that in 1964 he had been tortured continuously for 60 days

He testified that former police commissioner Johan van der Merwe and former Ciskei police chief Johan "JJ" Viktor, who had been lieutenants at the time, had both tortured him.

Others who had been in the room while he was being tortured included "Rooi Rus" Swanepoel, himself a colonel, and one-time Bureau of State Security (Boss) head, Johan

van der Berg and General Coetzee, who was commissioner from 1983-87.

Just one day before Mr Maharaj's testimony, General Coetzee had told the TRC that he had never given orders for illegal activities, nor been required to issue orders for illegal activities, and that he had never condoned any such activities by the men under his command.

Responding to questions by the commissioners during testimony by senior officers of the SAP, General Coetzee denied there had been a culture of *laissez-faire* (do what you like) in the police force under his command, and said he found some of the amnesty cases of former policemen now being heard by the commission as "morally, personally repugnant"

He said that where he had become aware of policemen who had acted illegally, he had charged them.

Both General Coetzee and General Van der Merwe headed the security police before being promoted.

The main thrust of submissions by the SAP officers was that after the ANC's meeting at Kabwe, Zambia in June 1985 - which took the form of a "Council of War" and where it decided to blur the distinction between "hard" and "soft" targets - the revolutionary climate inside South Africa had so deteriorated that legal policing was no longer

Coetzee
truth.

To page 3

P.T.O

The general 'is very short with the truth'

From page 1

effective. They therefore felt justified in resorting to tougher, often illegal means, which had included abduction, torture and murder in their efforts to counter the liberation movements.

But these claims were rejected by Mr Maharaj, who pointed out that as early as 1963, two political prisoners had died while in police custody.

In 1965, six had died, and black-consciousness leader Steve Biko, killed in 1977, had been the 46th political prisoner to die in detention, said Mr Maharaj.

"The methods used - sleep deprivation, electric shocks, the 'helicopter', standing on bricks - they were all there.

"All these methods of torture, some culminating in death in detention, were already there in 1963."

Police men who had been sergeants, warrant officers and lieutenants at the time, had later been promoted to the rank of general and some had testified at the TRC this week, Mr Maharaj noted.



Startling revelations: Mac Maharaj, right, and Joe Modise at the TRC hearing

They had included General Viktor and General Van der Merwe, who had just returned from training courses under the Portuguese and French police - fighting against Algeria's pro-independence movement - at the time

of Mr Maharaj's detention. In their first "experimentation", these policemen tried out a Portuguese torture instrument - a plank with holes of tapering diameters drilled through it - on him in jail, Mr



General Coetzee: torture allegations.

Maharaj said "It was used on the soft parts of the body, so when you are hit with that, even the gentlest of slaps, it sucks your skin into that hole until it is a total agony."

ARG 11/10/97

(252)

Because of his own experiences and those of other political prisoners, Mr Maharaj said he found it "very strange" that the former police hierarchy could claim that unconventional methods had only been used in the latter half of the 1980s.

"Everything was being done illegally from 1963."

Mr Maharaj said it was not "aberrations" by individual policemen that were of as much concern, as how the system had been allowed to make gross human-rights abuses "structural".

Calling on the TRC to investigate this, he said "if we don't find out we will not have learned a single thing."

Speaking at an ANC press conference after the hearing, Mpumalanga premier and ANC national leader Matthews Phosa said they had information from many sources that General Coetzee had given orders to his men to commit illegal activities.

"If it (the hearing) had been an amnesty application, I would say he mustn't be given amnesty. General Coetzee is very short with the truth."

Scrap Omar Bail Bill say

human-rights groups (252)

'Not constitutional and unnecessary'

CLIVE SAWYER

A group of human rights lobbyist organisations say Justice Minister Dullah Omar's proposed law on tougher bail should be scrapped, saying it is unconstitutional and unnecessary.

They are considering referring the bill to the Constitutional Court if Parliament approves it in its current form. The non government organisations told the portfolio committee on justice that it would be more useful to improve the working of an already adequate law. However, there is some pessimism about whether parties will heed the call to scrap the bill, for fear of being seen to be soft on crime.

The bill provides for:
■ A ban on after-hours bail applications;
■ A bail application to be postponed, if the attorney-general issues a written confirmation that the accused will be charged with a serious offence, Denial of bail if the release of the

accused will disturb public order, with the court able to take into account whether the nature or circumstances of the offence are "likely to induce a sense of shock or outrage in the community", and

■ People accused of certain serious offences will have to prove to the court there are "exceptional circumstances" justifying their release on bail.

At a media conference Jeremy Sarkin of the human rights committee said the proposed law infringed constitutional and human rights in the constitution

"Respecting the rights of accused persons is not being 'soft on criminals' but rather a matter of protecting the countless numbers of South Africans who are accused of crimes they did not commit"

The real problems were in the way police investigated cases and the way the courts applied the current bail law. Refusing bail would worsen prison overcrowding
"Costs of confining more accused

individuals could be spent on detection of criminals and rehabilitating offenders who otherwise come out of prison more likely to re-commit offences," Professor Sarkin said

Martin Schonteich of the Institute of Race Relations said it was particularly worrying that when deciding on bail a clause provided for courts to take into account, "the likelihood that the release of the accused will disturb the public order or undermine public peace or security"

"This could result in courts granting or refusing bail not on the merits of the accused's case, but on the basis of mob rule," he said. The current bail law was a good one, he added, but the criminal justice system did not have the resources to use the existing bail law fully. The Western Cape branch of the National Association of Democratic Lawyers (Nadel) said the makers of the constitution had not meant to turn the community into a judiciary
"The bill constitutes nothing more than an ill-considered knee-jerk politi-

cal response," Nadel said. Lawyers for Human Rights said the bill did nothing to address the serious problems in the criminal justice system

"It may create the impression that the government is at least doing something, but good public relations should not be the measure by which a decision is made on such a far-reaching legislative amendment"

LHR said there should be a shift to a victim-centred approach to the administration of criminal justice. The Legal Resources Centre said it was unacceptable that an attorney-general would be able to prevent bail being obtained
This subjected a possibly innocent person to detention without trial.

"It goes even further than the detention provided for in the State of Emergency Bill and leaves the accused in a democratic state - governed by the Bill of Rights - worse off than under the apartheid criminal justice system," the centre said

RETIRED 190/97

WHEN it comes to interviews, 30 into 23 just doesn't go, as the Judicial Service Commission discovered this week

Its 23 members were to spend just over 30 minutes with each of the candidates for a number of judicial posts. The quality of the resulting interviews varied widely — sometimes even wildly

At stake were a number of top slots on the Constitutional, Appeal, High and electoral courts

Over the three-day hearings, some candidates, particularly Appeal Court and some of the Constitutional Court nominees, were asked questions of substance aimed at disclosing their judicial philosophy and approach to important legal questions. But during other interviews, the commissioners' priorities seemed quite different

For example, Durban advocate Zak Yacoob SC, and the director of the Centre for Human Rights at Pretoria University, Johann van der Westhuizen, were both expert advisers to the Constitutional Assembly and made considerable input on sections of the Constitution. What, therefore, would be their approach if they were to be appointed and counsel appearing before them raised questions of interpretation relating to sections of the text on which they had worked intensively?

Yacoob and Van der Westhuizen, as well as individuals in the small audience, expected questions to clarify their positions on these and related issues — but they never came

Instead, commissioners told stories about Yacoob's prodigious memory and achievements, and chatted to Van der Westhuizen about his role in setting up talks in Dakar between leaders of the then establishment and the then-banned ANC

Chief Justice Ismail Mahomed asked Yacoob whether there was any reason he would prefer to be considered for the Constitutional Court rather than any other. Yacoob, who is blind, said the commonly held view among South African jurists was that someone who cannot see a witness

Not all equal in heights of the law

Judicial service commissioners were erratic in their questioning of those standing for top posts, writes CARMEL RICKARD

(252) ST 12/10/97

giving evidence would not be effective as a judge in a High Court. But this consideration would not apply in the Constitutional Court

Yacoob added that he needed a reader, and that if he were appointed, the state would have to ensure he was placed in the same position as other members of the court, even if this "may be a bit more expensive"

The only vaguely substantial question came from Constitutional Court president Arthur Chaskalson, who asked, almost in passing, whether Yacoob had been sur-

prised by the decision of the Constitutional Court not to certify the first draft of the constitutional text. Yacoob answered in the same vein — what had surprised him most was the "uncharacteristic crispness and unanimity" of the decision

Perhaps most striking was who was not at the hearings. The 26 listed candidates included only one woman

prised by the decision of the Constitutional Court not to certify the first draft of the constitutional text. Yacoob answered in the same vein — what had surprised him most was the "uncharacteristic crispness and unanimity" of the decision

Interviews with certain other candidates did not run as easily, however

Johannesburg advocate Nikola Motata was grilled by some of the commissioners about incidents of alleged misconduct on his record. The next day Durban advo-

cate Gordon Richings SC must have been surprised by the vehemence with which some of the commissioners pounced on the single blemish on his record — having double booked two cases in the first years he joined the Bar, he was disciplined by the ethics committee. Commissioners who had come to Motata's defence the previous day grilled Richings. What had he learnt from the experience? Was it a turning point in his life?

Even worse for Richings, he was interviewed immediately after his colleague at the Durban Bar, Kenneth Mthiyane SC

Mthiyane spoke of his father's early death, the determination of his mother, a domestic worker, to ensure he was educated, and his decision to drop out of school and support the family. He began as a general labourer, became a steamer in a dry cleaning shop and later walked the streets delivering telegrams before graduating to post office counter clerk, where he was introduced to correspondence study by Unisa students. He obtained his matric then went on to law

This graphic account of his struggle made a stark contrast to the attitudes of Richings, who heads the Bar's examination committee, and appeared to be a potential source of ideas for the commission on how to identify and assist promising young black lawyers

However, asked what steps he had taken to rectify the imbalance on the Bar, Richings said he had not taken any "I have not ever thought about the matter"

Faced by a frustrated

barrage of questions from ANC MP Johnny de Lange, who chairs the parliamentary justice group, Richings finally conceded that apartheid had left a problematic legacy of imbalance, but added "I would think that over the years it will rectify itself"

Interviews with the next two candidates also presented a sharp contrast. First, Durban silk and acting High Court judge Rashid Vahed was grilled about his CV, which did not list any involvement in political or community organisa-

tions before the new political dispensation. The impression was clearly created that the human-rights credentials — or lack of them — of an aspirant judge were among the most important qualities which the commission would consider

But the next candidate, Andre Blignaut SC of the Cape Bar, was not asked a single question relating to the distinct lack of human rights cases during his long and highly successful legal career

He was, however, asked for his views on the

cont →

ST

12/10/97

252



FOND MEMORY: Zak Yacoob SC was lauded by commissioners more than he was quizzed

death penalty and on sentencing policy, particularly in the light of the serious crime problem. It was the kind of question one might have expected

to have been put to all aspirant High Court judges, but it was the only time the matter was raised.

Perhaps the most striking feature of the hearings

was who was not there. The 26 candidates listed included only one woman, Matilda Masipa of the Johannesburg Bar, and she was standing for the

electoral court, not the High Court bench.

The commission's recommendations released immediately after the hearings seem to confirm

an impression created during the interviews — that appointments to the High Court and the Appeal Court will tend to go to candidates with some experience on the Bench as an acting judge. This would explain the decision not to fill two vacancies — on the Appeal Court and in Johannesburg — since none of the candidates had acted as judges on them.

Another impression created is that the commission feels overwhelmed by its responsibilities. In addition to its crucial appointments function, it has apparently accepted the task of setting up ongoing judicial education.

And it must constantly wrestle with the need to make the Bench more representative in terms of race and gender.

How to achieve these ends was constantly on the minds of most commissioners, and their questions sometimes seemed aimed at getting ideas for solving this problem and only indirectly at probing the candidates' suitability.

ST(CM) 12/10/97 (252)

Angry lawyers demand Legal Aid Board fees

YVETTE VAN BREDA

ANGRY Western Cape lawyers this week confronted Justice Department officials about unpaid Legal Aid Board fees running into millions of rands

At a crisis meeting held at the Wynberg Magistrates Court, about 100 lawyers complained about the board's precarious financial position, and several

claimed to be facing bankruptcy as a result

However, chief state law advisor Enver Daniels assured the lawyers that the outstanding fees would be paid

Legal Aid Board director Nic Pretorius denied the board was bankrupt and blamed the delay in payments on the workload that had doubled over the past three years. But he promised that it was "just a matter of time" before accounts were paid

This year the board is expected to provide financial assistance to about 180 000 people — a dramatic increase since 1990 when it handled only 24 289 cases

Since then its budget had rocketed from R15-million to R156-million last year and it was now facing a budget shortfall. The board would know on Tuesday whether it would be granted an extra R305-million from the Justice Department, said Daniels

Attorney William Booth, who chaired the meeting, said the matter would be discussed at this week's Law Society general meeting in Cape Town

Explaining the delay in payment to the attorneys, Pretorius said during the first five months of this year the board had paid out R102-million for about 75 000 cases, compared with R99-million for the whole of last year because of the overwhelming increase in calls for legal aid

Judiciary shielded apartheid police

CARMEL RICKARD

STARTLING revelations about the role of the judiciary in shielding the police from criticism over human rights abuses during the apartheid era have been made before the Judicial Services Commission

According to the revelations, a senior judge warned a junior colleague in the mid-80s not to criticise the police in open court because of the "dependent" nature of a judge's relationship with the police.

The disclosures were made during the commission's hearings in Cape Town this week. A candidate for the Appeal Court, Mr Justice Deon van Zyl of the High Court in Cape Town and for-

merly on the Bench in Pretoria, was questioned about his human rights record while still an advocate and during his time on the Bench

He told the commissioners that he had mainly focused on civil work during his advocacy because he was offered those briefs

On the Bench he had even less opportunity to hear human rights cases. The only such matter he heard was a case during which he criticised the police. This led to a severe rap over the knuckles by the acting Judge President of the Transvaal Provincial Division, who told him that such criticism was not tolerated in that division. He was never again allocated a "political" case while he served on the Transvaal Bench

The revelations by Judge van Zyl confirm the suspicions of a number of academic writers and human rights lawyers that, during the apartheid years, certain judges refused to tolerate criticism of the police and that only judges who had a record of compliance with the police would hear "political" cases

Members of the truth commission tried to obtain more information from Judge van Zyl

The director of constitutional litigation at the Legal Resources Centre, Wim Trengove SC, asked whether his actions were not an improper invasion of the independence of the judiciary and an improper approach by a court to the executive. Judge van Zyl said that he had been embarrassed by the criticism and had said nothing

"I did not take it up. It was a sensitive issue. I felt I had been branded a 'liberal judge'."

Another commissioner, George Bizos SC, asked Judge van Zyl to disclose the name of the senior judge who had castigated him for criticising the police

However, the judge was then requested by other commissioners not to do so in public and the mystery judge was not identified, other than by Judge van Zyl's remark that "he had long since retired"

Asked for comment after the hearings, the Minister of Justice, Dullah Omar, said that incidents like these were being investigated by the truth commission as part of its probe into the role of the legal profession during the apartheid years

ST 12/10/97

(252)

'Nkabinde knows truth of parties' infiltration'

BD 13/10/97 (252)

Stephen Laufer

CAPE TOWN — The African National Congress (ANC) suggested on Friday that the truth commission question former KwaZulu-Natal midlands leader Sifiso Nkabinde to enhance its understanding of the former government's role in stoking conflict between political parties

Nkabinde should be encouraged to explain how the previous government's security forces had infiltrated the parties to agitate relations between the ANC and the Inkatha Freedom Party (IFP), Transport Minister Mac Maharaj said

He was speaking at a commission hearing on Umkhonto we Sizwe (MK), which was part of last week's inquiry into military formations. The ANC revoked Nkabinde's membership in April, saying it had evidence he was planted within the party by the former government.

Maharaj said it was possible Nkabinde could explain who had an interest in preventing reconciliation between the ANC and the IFP. The National Party had re-

fused to come clean on how they had tried to manipulate the situation to prevent democratic change.

The IFP and its leader Mangosuthu Buthelezi should also explain to the commission what had changed their attitudes to the ANC during the 1980s. It was notable that relations had deteriorated significantly with the arrival in the mid-1980s of Jac Buchner to head the then Natal security police.

Understanding the covert methods of the previous government was key to future peace, Maharaj said, because the security management structures which ran them "remain embedded within our society and in the ANC".

Maharaj also said former SA Police commissioner Johan Coetzee had been present when he had been tortured in 1964. Coetzee told the commission the day before that he had never "given a single policeman a single order to commit an illegal action". Maharaj said Coetzee had witnessed his maltreatment by Johan van der Merwe, later Coetzee's successor as commissioner, and JJ Viktor,

later Ciskei police commissioner

Pressed by the truth commission on the contents of ANC and SA Communist Party literature of the 1980s exhorting township dwellers to violence, the party's legal adviser Mpumalanga Premier Mathews Phosa said many militant articles represented contributions to a debate and not the organisation's final policy. It was nevertheless possible that township militants could have interpreted them as a call to action which had resulted in the deaths of those identified as opponents

The acceptance of this interpretation for the first time by the ANC is likely to open the door to the acceptance by the commission of several amnesty applicants who have claimed to have operated in keeping with the organisation's perceived policies

Amnesty applications from ANC members for the bombings of Wimpy Bars had been received, the hearing was told. The ANC said although it had not been policy to target purely civilian targets, it accepted responsibility for such acts carried out by cadres in contravention of policy

In SA, selection of judges more open than in Canada

OSCAR JACOBS

THE courts in Canada and South Africa have the authority to overturn legislation and make far-reaching decisions in controversial policy areas such as capital punishment, abortion and the limitation of government powers. Last week the Judicial Service Commission met in Cape Town to interview candidates for a number of vacancies, including one on the Constitutional Court.

After the interviews, the front runners for the Constitutional Court appointment appear to be Justice Edwin Cameron and Advocate Zacob Yacob. In the same period, a new justice was named to the Supreme Court of Canada, which is the final arbiter in all legal matters, including constitutional issues. The Canadian process, however, effectively precluded any informed public discussion or scrutiny of the candidates.

It is interesting to compare the two processes in Canada, the selection of judges, particularly appointments to the Supreme Court, is manifestly politicised, secretive and anti-democratic. Many of the "rules" governing the selection of Supreme Court judges are, in fact, mere conventions and the executive branch of government has a dangerously broad discretion in shaping the body that ultimately defines constitutional and legislative rights and responsibilities. Canadians have been fortunate that this discretion has not, thus far, been exercised overtly so as to "stack" the court. The courts, although activist, have operated independently and in good faith. Excessive reliance on good faith, in the

absence of transparency and legal safeguards, fundamentally undermines the independence of the judiciary, particularly in a context where the executive controls broad discretionary powers. Certainly this was the case in apartheid-era South Africa where similar procedures (or the lack thereof) led to the appointment of a judiciary that rarely challenged National Party policies.

During the Codesa negotiations, when South Africa was being recreated as a constitutional democracy with universal franchise, the process of appointing judges was overhauled entirely.

Two themes dominated. First, comprehensive changes were required to transform a justice system that had, for most South Africans, lost much legitimacy. However, the prospect of domination of national politics by the ANC for the foreseeable future led the other parties (including, ironically, the NP) to press for judicial appointment procedures that were transparent, apolitical and designed to guarantee, as far as possible, the independence of the judiciary.

The compromise arrived at led to the establishment of the Judicial Service Commission, a body of 23-25 members (depending on the appointment), composed of representatives from the bench, the Minister of Justice, the bar, side bar, a legal academic and parliamentarians.

Where provincial High Court appointments are being made, the commission is expanded to include the premier of that province and relevant judge president. The national assembly members, of whom there are six, must be composed equally of members of the government and opposition parties. For the nominees facing

CF 13/10/97

(252)

such a panel, the interview must be an unnerving prospect, indeed.

The commission is obliged by its regulations to distribute the names of nominees to civil and professional organisations for comment before the interviews. The interviews themselves are similarly required to be open to the public, although their final deliberations are not.

Last week, the commission appeared comfortable with its policy role as the shaper of the judiciary, both in terms of the development of a human rights culture and in addressing the issue of representivity. By all accounts, the process is fostering a judicial culture of independence and, increasingly, legitimacy.

However, some problems of transparency remain — the closure of the commission's deliberations and the fact that no reasons are given for decisions being but two. While time spent exploring the broader policy mandate of the commission is to be applauded, technical questioning of interviewees on their knowledge of jurisprudence was conspicuously absent. Both areas must be adequately addressed and the half-hour allotted for interviews is insufficient.

Nevertheless, South Africans will have been better informed and able to participate in the process of judicial selection than their Canadian counterparts. The South African process engages public discussion about the sensitivity and representivity of an institution — the courts — that has traditionally shunned public scrutiny.

□ Oscar Jacobs is a Canadian legal researcher with *Itasca's Political Information & Monitoring Service*

Bail bill may face opposition from 10 human rights bodies

Wyndham Hartley

BD 13/10/97 (252)

CAPE TOWN — Justice Minister Dullah Omar's new bail laws could face a Constitutional Court challenge from his erstwhile colleagues in at least ten human rights organisations if the legislation passes through Parliament in its present form.

The Criminal Procedure Second Amendment Bill was described by organisations from the Human Rights Commission to the National Association of Democratic Lawyers as "draconian", as a "political public relations exercise" which would in no way assist the SA crime situation, and as "unconstitutional".

In a joint news conference last Friday, the Human Rights Committee, the Black Sash, the Institute for Race Relations, Nadel, Rape Crisis, the Southern African Catholic Bishops Conference, Lawyers for Human Rights, the Legal Resources Centre and the Human Rights Commission called on Omar to scrap the bill in its entirety.

Human Rights Committee spokesman Jeremy Sarkin said discussions had been held among human rights organisations as to whether or not a constitutional court challenge would be mounted if the offending sections of the new bail law passed through Par-

liament and on to the statute book. It was possible but a decision would be made once the final version of the legislation was known.

Cape Town Legal Resources Centre spokesman William Kerfoot said that in some cases, should the bill become law, awaiting trial prisoners would be worse off than before 1994. He and Helene Combrinck of Rape Crisis expressed concern that the legislation would create in the public the perception something was being done about crime and when this was demonstrated to be untrue it would lead to a further erosion of faith in the criminal justice system.

"The existing law regulating bail is more than adequate to deal with persons who should not be granted bail. What is required is not harsher bail legislation but proper training of judicial officers who deal with bail applications. It is unacceptable the attorney-general can by certificate prevent bail from being obtained in certain circumstances.

"This effectively subjects a possibly innocent accused person to detention without trial, goes even further than detention provided for in the state of emergency, and leaves the accused in a democratic state governed by a bill of rights worse off than under the apartheid criminal justice system," he said.

Plan to tighten up on bail comes under fire

New bill 'may flout constitution'

(252)

ARG 13/10/97

POLITICAL STAFF

Legislation which tightens up conditions of bail is in for a rough ride through the parliamentary justice portfolio committee this week, with opposition from human rights groups and opposition parties.

Questions are also expected to arise about the constitutionality of the measure, which places the onus on those charged with serious crimes - murder, rape and robbery - to show why they deserve bail.

The Criminal Procedure Second Amendment Bill has already faced strong opposition from the Human Rights Committee, the Black Sash, Lawyers for Human Rights, the National Association of Democratic

Lawyers and the South African Institute of Race Relations.

While the National Party is likely to support the measure because it makes bail conditions more difficult, the Democratic Party is expected to oppose its stipulation that magistrates also have to consider the sense of shock that granting bail to someone accused of a serious crime would have on the community.

But human rights groups are arguing that the bill may be unconstitutional, as the constitution enshrines every person's right to the due process of law - which is based on the principle of being innocent until proved guilty.

Justice Minister Dullah Omar, however, is responding to a growing perception that criminals are being

allowed to roam free, and the measure is interpreted by human rights groups as an over-reaction to public sentiment about crime.

DP justice spokesman Douglas Gibson says the capacity of the courts and the police to deal with criminal cases is a far greater problem.

Indeed, existing bail legislation passed in 1995 - the Criminal Procedure Amendment Act - had led to 10 000 extra accused being brought to trial.

The human rights groups say that the existing law is adequate.

This legislation provides for a ban on after-hours bail applications, with an application to be postponed if the attorney-general issues a written confirmation that the accused will be charged with a serious offence.

SA role in arms trade under fire

ARG 13/10/97

Johannesburg - Anglican Archbishop of Cape Town Njongonkulu Ndungane has criticised South Africa's involvement in the international arms trade.

Speaking at the end of a mass peace march in Assisi, Italy, he said it was significant that many world leaders were questioning South Africa's role in the arms race.

"They are saying that we are sending out mixed messages in terms of promoting global peace," he said.

"And they are adding that if we wish to be a forceful member of the southern hemisphere, we should not involve ourselves as a power broker in the field of arms," he said in a speech sent here - Sapa

SA slams the door on illegals and smugglers

ARGUS CORRESPONDENT

Johannesburg - Widespread smuggling and illegal immigration will be dealt a significant blow by a clamp on the number of land, sea and air entry points into South Africa, says Transport Minister Mac Maharaj.

It has been estimated that R17-billion a year is being lost in customs revenue, and that as many as 500 people are entering the country illegally every month.

Commenting on Cabinet approval for measures to restrict the number of international airports to 10 - of a total of 36 countrywide - Mr Maharaj

said some airports would be able to negotiate concessions for certain international flights.

The airports that will be allowed to clear goods and passengers for or from international flights are Johannesburg, Cape Town and Durban International, and Bloemfontein, Lanseria, Nelspruit, Upington, Pietersburg, Mmabatho and Port Elizabeth.

The Safety and Security Department's deputy director-general, Bernie Fanaroff, said cross-border flights were at present allowed to land at virtually all airports. The restrictions would bring South Africa into line with other countries.

Late Winnie breezes into TRC hearing ⁽²⁵²⁾ *Quizzed on murders* ^{ARG 13/10/97}

ARGUS CORRESPONDENT

Johannesburg - Winnie Madikizela-Mandela and a 20-strong entourage of relatives and bodyguards breezed into the Truth and Reconciliation Commission this morning for a closed hearing on her alleged involvement in crimes including murder and abduction.

Mrs Madikizela-Mandela entered the office about 45 minutes after the scheduled 9am start of the meeting, flanked by four bodyguards, her youngest daughter, Zenani, and several "comrades"

Zenani carried her mother's briefcase into the office while the TRC's investigative team and commissioners looked on

Mrs Madikizela-Mandela hugged and kissed every member of her entourage as they left the room, before taking a cellphone call from a wellwisher. The in-camera questioning started about 10am

The ANC Women's League

president was flanked by two lawyers as she faced the six-member investigative team.

Today's hearing is a continuation of a session that started two weeks ago

The panel's head of investigations, Dumisa Ntsebeza, also seen entering the meeting, travelled last week to Britain to try to persuade one of Mrs Madikizela-Mandela's accusers, Katiza Cebekhulu, to return to South Africa to speak to the commission

Mrs Madikizela-Mandela was subpoenaed in August to answer allegations of involvement in murders, abductions and torture committed while her then husband, President Mandela, was serving his life jail sentence

The closed inquiry began on her 63rd birthday on September 26, but was adjourned after only a half-day of questioning

Today's inquiry was expected to last the whole day

An open hearing will be held in November

Move to cut bill for rights

ET 14/10/97

(252)

COMMISSIONS are thinking of setting up "one-stop human rights facilities" in the provinces that will enable them to cut costs by sharing offices and facilities

In the three years to next March, the commissions on human rights, youth and gender equality would have cost about R287 million, a recent Democratic Party study found

The chairman of the Human Rights Commission, Mr Barney Pitjana, conceded yesterday there was some duplication of work by commissions. They were considering establishing "one-stop human rights facilities" to cut costs

However, the DP's study was "racist" because it targeted those commissions headed by blacks, Pitjana said. He questioned the criteria used by the DP in selecting black-led commissions for scrutiny

"The question must be asked because a race theory analysis is vital to understand-

ing the dynamics of our society," he said

The DP's parliamentary manager, Mr Ryan Coetzee, said the party stood by its report as it was based on "fact taken from government documents tabled in Parliament"

Pitjana challenged the DP to use parliamentary channels to assess the performance of commissions. The auditor-general should assess commissions' finances and the portfolio committees should determine whether they were delivering

"Parties should be fighting these battles in Parliament where the debate belongs," Pitjana said. "The institutions are a product of negotiations in the constitution-making process in which the DP took part"

Commissioners' salaries had been determined by the president, cabinet and Finance Ministry, Pitjana said. His annual package is R304 722 — Political Writer

ET 14/10/97 (252)

AHI apologises for backing apartheid

PRETORIA: The Afrikaanse Handelsinstituut apologised yesterday for having supported apartheid, but denied that business had benefited from the racial policies of the former government.

In a submission to the Truth and Reconciliation Commission released here, the organisation confessed to having made several major mistakes in the past. Its presentation at the request of the TRC covers the AHI's role in apartheid from 1960 to 1994.

"As a business body, we should have realised much earlier that

moral and economic realities totally contradicted even the most positive view of the policy of separate development," the AHI said.

It comprises about 150 chambers of business throughout the country, representing about 5 000 individuals. Another 30 bodies comprising about 35 000 members are affiliated to the organisation.

The AHI said it had supported apartheid in the belief that the policy would culminate in a dispensation acceptable to all South Africans. This did not happen.

"Separate development, in fact,

amounted to social manipulation which made cruel demands on people, and led to an enormous waste of resources."

This squandering of resources had resulted in South Africa being poorer than it should have been.

The AHI said it had neglected to recognise the moral and economic objections to apartheid. "There was a lack of understanding for the suffering and pain caused by this policy." The misery blacks had suffered "should have brought the horror of apartheid home to the AHI" — Sapa

TRC seeks to link *ET 14/10/97 (52)* politicians, generals

JOHANNESBURG: Former law and order minister Mr Adriaan Vlok and retired foreign affairs minister Mr Pik Botha are to be quizzed on their understanding of the words "eliminate" and "neutralise" when they appear before the Truth and Reconciliation Commission today

The two have been subpoenaed to testify at the special TRC hearing on the State Security Council, the now-defunct body which had the responsibility of drawing up national security policy during the height of the apartheid conflict

Former National Party cabinet ministers Mr Roelf Meyer and Mr Leon Wesels follow tomorrow

The TRC's SSC probe comes after last week's armed forces hearing in

Cape Town, when high-ranking officers of the apartheid security forces were questioned at length on the chain of command which led to gross human rights abuses

Former police commissioner General Johan van der Merwe, an amnesty applicant, told the TRC last week that while the SSC did not order unlawful actions, its members were aware they were carried out by the security forces

"If it is denied the previous government, specifically the SSC, did not have knowledge of unlawful actions, that is not true," he said

He acknowledged "eliminate" and "neutralise" had been used in official SSC documents to describe how anti-apartheid activists were to be dealt with, but said he had always understood it to mean to "arrest" and "detain"

However, high-ranking subordinates such as Brigadier Willem Schoon, former head of the security police's C-Section, which included Vlakplaas, said the words had only one meaning — to kill

TRC deputy chairman Dr Alex Boraine said yesterday the SSC hearing would be crucial to the commission's understanding of how orders were communicated from the politicians to the security forces

"We have studied the SSC documents very carefully. There do seem to be

clear contradictions about what certain words meant. We would like to clarify that," he said

"It is time to move away from word games and semantics. We are hoping that the evidence we hear this week will provide that bridge between the generals and the politicians. We have a reasonably good chance of getting clarity at last on the chain of command."

Boraine said the evidence emerging from this week's hearing could lead to more questions being posed to former state president Mr F W de Klerk and others



TO BE QUIZZED: Former law and order minister Adriaan Vlok

De Klerk's predecessor, Mr P W Botha, was also subpoenaed to attend the hearing but the TRC agreed to postpone his testimony while he recovers from a recent operation.

Some observers, like Brigadier Bill Sass, the deputy director of the Institute for Security Studies, believe this week's hearing will not produce the results the TRC seeks

"They are trying to find out information about things that would not have been discussed in a

general (SSC) hearing," he said

"That sort of discussion would have taken place in a small group between one or two ministers"

Although he believed the hearing would provide valuable insight into the workings of the SSC, it was likely that it would degenerate into an argument about the meaning of different words

"There's going to be disagreement on the meaning of third force and the words eliminate and neutralise," he said — Sapa

'One-stop human-rights facilities' mooted

Star 14/10/97

(252)

By HOPEWELL RADEBE
Political Staff

The Government was considering creating "one-stop human-rights facilities" in the provinces to allow commissions to cut costs by sharing offices and other facilities.

Commissions to promote human rights, youth and gender equality will have cost the taxpayer an estimated R287-million over a three-year period

ending in March next year, according to a recent study commissioned by the DP.

Human Rights Commission chairman Barney Pitjana told a news conference yesterday the DP's study was racist because it targeted those commissions headed by blacks. But he conceded there was some duplication and overlapping.

He said commissions were considering establishing "one-stop human-rights facilities" in

the provinces to help cut costs.

However, he accused the DP of criticising only those commissions that were led by blacks.

DP spokesman Ryan Coetzee has denied that the race of those in charge of the commissions it chose to study was ever considered.

Pitjana challenged the DP to use parliamentary channels to assess the performance of commissions. The auditor-general should be asked to assess

commissions' finances, and Parliament's portfolio committees should assess whether the commissions were delivering.

On the issue of the salaries paid to commissioners, Pitjana said allowances and service benefits of full-time and part-time members of the commission were determined by the president in consultation with the Cabinet and the Finance Ministry. Pitjana earns a package worth R304 722 a year.

Possible defamation suit on Maharaj a non-starter

Evidence given before TRC enjoys qualified privilege

By ROBERT BRAND

If former police commissioners Johan van der Merwe and Johann Coetzee want to sue Transport Minister Mac Maharaj for defamation, they will have to prove that he had an improper motive when he allegedly implicated them in the torture of detainees, legal sources say.

A lawyer representing Van der Merwe and Coetzee confirmed yesterday that he had been instructed to investigate the possibility of legal action against Maharaj for statements he had made before the Truth and Reconciliation Commission last week.

Testifying last week during the TRC's special hearing on the role of armed forces during the apartheid

era, Maharaj said Coetzee had been present when he was tortured by security policemen in 1964. He also said a Lieutenant van der Merwe had been one of his torturers.

Coetzee, testifying earlier at the same hearing, told the TRC he had never personally ordered or condoned illegal acts by the police.

Jan Wagener, the attorney representing Coetzee and Van der Merwe, told The Star yesterday he had received instructions from his clients to investigate a possible defamation action "or any other relevant legal action" against Maharaj.

Coetzee and Van der Merwe deny having tortured Maharaj during his detention.

But legal experts said evidence given before the TRC enjoys the

Star 14/10/97 (252)
same qualified privilege as evidence given in a court of law. A witness is protected against defamation action unless the defamatory statement is made maliciously.

Even if Maharaj had been mistaken about the identity of his torturers, he would still be protected, the sources said.

TRC legal head Hanif Valley said evidence given under subpoena, such as Maharaj's statements, enjoyed further privilege because the witness was compelled to answer questions.

Maharaj's spokesman Didi Moyle said the minister had not heard from the lawyers of Coetzee and Van der Merwe. She added that Maharaj denied he had accused Van der Merwe of torture.

Use billions, TRC told

seweta 14/10/97 (252)

A R9-BILLION insurance fund from the apartheid era should be used to compensate victims of apartheid, Afrikaans business proposed yesterday

In a submission to the Truth and Reconciliation Commission (TRC) the Afrikaanse Handelsinstituut (AHI) said some of the money could also be allocated for training purposes

The organisation said the fund, dubbed the SA Special Risk Insurance Agency (Sasria), had largely served its purpose. It was set up during the apartheid years to cover contribu-

tors' riot losses

Should the TRC decide to compensate victims of apartheid, the AHI said, the funding of such an exercise presented a problem

"We propose that a part of the Sasria fund, originating mainly from business enterprises, be used as a funding source"

About R9 billion had accumulated in the fund

"Sasria was a unique creation of the apartheid era to cover losses because of political riots. That risk has largely disappeared," the AHI said - *Sasria*

Winnie heading for a showdown as TRC zeroes in on allegations

BY ROBERT BRAND

The stage is set for a confrontation between Winnie Madikizela-Mandela and those who claim to have been victims of a reign of terror by her bodyguards in the 1980s.

Madikizela-Mandela was questioned in camera by Truth and Reconciliation Commission investigators for four hours yesterday on her alleged involvement in human rights violations.

The closed inquiry will be followed by a week-long public hearing next month, at which Madikizela-Mandela will be questioned, and the families of alleged victims of Madikizela-Mandela's "football club" will be given a say.

(252) TRC investigations unit head Dumisa Ntsebeza said he was satisfied with yesterday's closed inquiry "We put all the questions we wanted to put to her. From our point of view the proceedings went very well," he said.

By law, the commission is not allowed to divulge details of the in-camera inquiry.

But the information will be used in the public hearing, called by the TRC after Madikizela-Mandela objected to being questioned in camera. The hearing starts on November 24.

TRC officials said the families of alleged victims of Madikizela-Mandela's bodyguards would also be allowed to testify. They will also be al-

lowed legal representation and the right to cross-examine Madikizela-Mandela.

She arrived at the inquiry at the TRC offices in Johannesburg yesterday accompanied by a 20-strong entourage of relatives and bodyguards. She entered the office about 45 minutes after her scheduled 9am start, flanked by four bodyguards, her daughter Zenani and several supporters.

Madikizela-Mandela was subpoenaed in August to answer allegations of involvement in murders, abductions and torture.

She has been convicted of involvement in the kidnapping of teenage activist Stompie Seipei, and was sentenced to a R15 000 fine on appeal.

Star 14/10/97

Business, unions make written submissions

Stephen Laufer

THE truth commission has received written submissions from several key SA companies, industrial federations and chambers of commerce for its special hearing on business and apartheid scheduled for next month.

Commissioner Fazel Randera said yesterday that representatives of the banking, insurance, motor manufacturing and other sectors had responded to the truth body's request for answers to a number of questions on the relationship between government and the private sector during the apartheid era.

Meanwhile, the Afrikaanse Handelsinstituut (AHI) released the full text of its submission to the commission.

Randera said SA Breweries, the reserve and development banks, Old Mutual, and Sanlam were among those to make submissions or to have promised to deliver them by Friday. Liberty Life had agreed to respond in writing, but was reluctant to appear at the hearing.

Barlow Rand's Mike Rosholt had submitted a personal response to the commission's request, and Tongaat Hulett, BMW and Toyota had asked for an extension. The building

industries' and textile federations, the National Association of Automobile Manufacturers and the Confederation of SA Trade Unions had also made submissions.

Britain's Anti-Apartheid Movement, a key mover in the boycott and disinvestment campaigns of the 1970s and 1980s, had compiled a document on overseas investment in SA and the activities of the armaments industry.

The AHI said in its submission its support for separate development had been "one of the worst mistakes". As a business organisation it should have appreciated much earlier that moral and economic realities "militated con-

clusively against even the loftiest interpretation of separate development."

On reparations to the victims of gross human rights violations, the AHI appeared to reject a suggestion that business contribute to a welfare fund, and it suggested that several billion rands held by the SA Special Risk Insurance Association be diverted to reparations work. The riot insurance company was a unique creation of the apartheid years, the AHI said, and most of its fund had originated from business. Government has said it plans to use as much as R8,5bn from the association's kitty to retire state debt.

ED 14/10/97 (252)

ARG 14/10/97
**Lawyers
want papers
before TRC
made public**

(252)
Johannesburg - President Nelson Mandela's former wife Winnie Madikizela-Mandela called for documents placed before a closed Truth Commission hearing on her alleged complicity in unsolved crimes to be made public.

National radio reported that Ms Madikizela-Mandela's lawyers had said she wanted the papers put before the Truth and Reconciliation Commission (TRC) earlier yesterday to be released "in the interests of transparency"

The TRC questioned Ms Madikizela-Mandela yesterday about her alleged complicity in unsolved crimes dating back to the late 1980s

She was subpoenaed in August to answer questions about her alleged involvement in murders, abductions and torture committed while her husband was in jail

The commission has said it is probing accusations made against her by 45 witnesses

Yesterday's hearing was a closed session, but Ms Madikizela-Mandela has insisted on discussing the allegations at an open session of the commission on November 24

The embattled former first lady has consistently rejected the accusations and has insisted she is innocent
- Reuter

Pik tells TRC of coup payment

ARGUS CORRESPONDENT

Johannesburg – The South African government bought the release of six mercenaries captured by Seychelles forces in an abortive coup on the islands in 1981, former foreign affairs minister Pik Botha told the Truth and Reconciliation Commission today.

Testifying on the first day of a hearing on the State Security Council (SSC), Mr Botha said the Seychelles coup attempt was not discussed or approved at cabinet or SSC level. But it was clear from subsequent investigations that the coup plotters had received clandestine support from the South African Defence Force and the National Intelligence Service, Mr Botha said.

He said he was not involved in negotiations to secure their release. The negotiations were led by the SADF and NIS.

He said he could remember that an amount of "between \$US3-million and \$6-million" was paid for their release.

The former government never admitted that money had been paid for the release of the plotters.

Running like a thread through Mr Botha's testimony were his allegations of subversion of South African foreign policy by the Department of Defence and the SADF.

The SADF supported Renamo after the signing of the Nkomati Accord, clandestinely supported the Seychelles coup, and wrecked the Commonwealth Eminent Persons Group initiative by launching raids in neighbouring countries.

Mr Botha denied the SSC or cabinet had been aware of the military's involvement in the destabilisation of neighbouring states.

(252) ARG 14/10/97 see pages 2 and 6

Mugabe 'elimination': Pik quizzed at TRC

State Security Council recommendation 'open to interpretation'

JOHN YELD
ON THE TRUTH COMMISSION

Johannesburg - Minutes of a State Security Council meeting could give the impression the apartheid government had a programme to assassinate political leaders like Robert Mugabe in the former Rhodesia.

Former cabinet minister Pik Botha said the minutes of a meeting in February 1980 were "unfortunately susceptible" to this interpretation. Mr Botha, foreign affairs minister in the National Party government, was testifying today at the Truth Commission's hearing into the working of the council. Mr Botha was a member of the council, headed by former president P W Botha.

He was responding to a number of questions by the commission, including South Africa's relations with Rhodesia and later Zimbabwe after independence in April 1980.

One of the questions related to the possible elimination of political figures in Rhodesia and was based on a report by the then head of the National Intelligence Service, Niel Barnard, to the council on February 18, 1980, days before the election which led to Zimbabwe's independence. Based on this report, the council adopted 10 recommendations, of which the eighth read "The implication of the elimination of political figures in Rhodesia must be continually kept in mind."

In adopting this point, the council noted that attempts to kill Mr

Mugabe, who won the election and became president, were "busy making a martyr of him. After another attempt he will be a hero."

The commission asked Mr Botha to explain whether this meant the South African government had a programme to eliminate Rhodesian politicians and, if there was no such programme, to what the recommendations referred.

Mr Botha replied: "I am not aware of any programme of the SA government to eliminate (in the sense of kill) any Rhodesian leader. The relevant recommendation of the SSC is unfortunately susceptible to such an interpretation."

Mr Botha said this discussion by the SSC had taken place just before the Rhodesian election and that all

the other recommendations clearly indicated they believed nothing should be done to upset the course of peaceful democratic elections.

"In the discussion which took place, reference was made to attempts by elements in Rhodesia to kill Mr Mugabe. There was consensus that these elements ought to be told that such attempts would have grave consequences. In other words, the SSC was of the opinion that any attempt to assassinate was certainly not in South Africa's interest."

Referring to the raid into Zimbabwe in August 1982, in which three white SA Defence Force soldiers were killed, Mr Botha said then SADF chief General Constand Viljoen had later stated that the men had been part of a group of former Rhodesian soldiers

who had gone into Zimbabwe on an unauthorised mission to free political detainees. This was one of several incidents the Department of Foreign Affairs had not anticipated.

"I do not know what the truth is," Mr Botha said.

Responding to how words like "eliminate" and "neutralise", used in SSC documents, would have been interpreted, Mr Botha said he realised the Truth Commission faced a dilemma - but these words and phrases were part of the vocabulary commonly used at the time.

"I can assure the Truth Commission that I did not approve and would not have approved any action which authorised the killing of political opponents of the government."

He said he was not aware of any

SSC decision of substance which had not been submitted to the cabinet for approval or discussion.

Mr Botha acknowledged that he could - and should - have done more to find out whether accusations that government institutions were killing and torturing political opponents were true.

"Not one of us in the former government can say today that there were no suspicions on our part that members of the police were engaged in irregular activities. The decisive question is not whether we as a cabinet approved the killing of a specific political opponent. The question is whether we should have done more to ensure it did not happen.

"I deeply regret this omission. May God forgive me."

Looking back on tragedy

(252) CT 15/10/97

CAPE TOWN, 1980 — a city of unrest and injustice — and the backdrop of a tragedy ending in death, imprisonment and suffering. **INGA MOLZEN** reports.

THE week of August 11, 1980, in which Fritz Jansen and George Beeton were stoned and torched on Klipfontein Road, was a shocking one for apartheid South Africa

It was a week in which many communities suffered losses — days before, an 18-year-old Guguletu youth was shot dead by police after allegedly throwing a petrol bomb at them

Two days after the horrific roadside torching, five youths were arrested. Two boys and three girls were held in detention before becoming state witnesses in a trial that spanned two-and-a-half years

Jansen, of Pinelands, and Beeton, of Kenilworth, died during the

three-month bus boycott — led by trade unionist and Nyanga community leader Oscar Mpetha — and major anti-apartheid protest.

The investigation which led to Mpetha's arrest was conducted by Director Leonard Knipe, now head of the violent crimes unit. TRC amnesty applicant Afrika Hlope, and 17 others, were co-accused

But Knipe has been "unable" to assist the repentant Hlope in contacting the Beeton and Jansen families

During the 1980 court case it emerged that

● August 11 had been a day of tension across the Cape Flats and in Nyanga, Crossroads and Guguletu townships. There had been confrontation between police and community members who were



WIDOW: Joan Jansen

boycotting City Tramways over fare hikes and demanding better public transport routes between their homes and places of work

● Mpetha called for a private taxi service for townships and for the alleged police harassment of commuters to stop

● Taxi drivers told of police harassment at the June 16 com-

memorative service that week, attended by hundreds of young people at Nyanga's Assembly of God Church. It was said that youngsters left the church vowing to stop cars driven by whites

● It was claimed a handicapped boy was placed in the road to stop oncoming vehicles. This was slated by Hlope as a move by the state to prejudice the outcome of the trial

● Hlope's co-accused said Beeton's car was the first to be stopped by youths and stoned. They said Beeton was beaten and that Hlope struck the final blow with a sharp stone

"We could not take on the police, so we adopted guerrilla tactics — striking and then moving back under cover," Hlope had said

Nine years later, before the release of President Nelson Mandela, community leaders, including Mpetha, urged youths to stop stoning cars

Killer pleads for family's forgiveness

ON AUGUST 11, 1980, Frederick "Fritz" Jansen, was driving home from work when he was surrounded by an angry mob who stoned and burnt him in Guguletu. He died the following day. Seventeen years later, one of his killers wants to say sorry, reports **INGA MOLZEN.**

THE image of a dying Jansen sitting in a pool of rainwater is one of the landmarks that brought home the realities of the decades-long struggle against apartheid. It is a disturbing image, like the pictures that recorded the deaths of Hector Pieterse during the 1976 Soweto school uprising and of Maki Skosana, necklaced on the East Rand days before the 1985 state of emergency was declared.

The 46-year-old builder from Pinelands paid a horrible price for being in the wrong place at the wrong time.

And, 11 others also paid a heavy price for what happened that rainy Monday.

One of them, Mr Athia Hapo, spent 11 years in jail for murder. Along with hundreds of other political prisoners, he was released from Robben Island in 1991.

But, he is still suffering from the memory of what he and others did to Jansen and to father of seven, George Beeton, 59, of Kenilworth, also stoned to death on Klipfontein Road that day.

Hapo, 37, a father of three and employed as a security guard in Cape Town, is still living in the Barcelona squatter camp, a few kilometres from where he helped kill the two innocent motorists.

Sentenced along with Hapo was Oscar Mpehla, then a trade unionist and the Nyanga Educationists Association chairman, and 18 others, on charges of terrorism and murder. Mpehla, left to

become president of the United Democratic Front (UDF) before his death, was jailed for five years for terrorism. Eight of the accused were acquitted.

Today, Hapo wants to tell his "first-time" story to encourage South Africans to reconcile and to tell the truth, as the first steps to national reconciliation.

He wants to meet the Jansen and Beeton families to explain how and why they died. He wants the Truth and Reconciliation Commission to grant him amnesty, even after he has served his time, so that he may have a clean record.

His message to the families is "I ask for your forgiveness".

Sentenced by the late Justice Dey's Williamson, who at the time said "the successful prospect for rehabilitation for Hapo is gloomy", Hapo now wishes to set an example for all South Africans "to set a standard of living with one another that is acceptable by all regardless of colour or creed".

He would like to work with the TRC or any relevant organisations committed to peace and anti-racism initiatives.

"Non-racial workshops which provide people with the necessary life-skills will enable all South Africans to accept one another. Even non-racial rallies would involve all South Africans alike" and provide the basis for "enabling South Africa to develop economically and socially. Whites have not accepted that they are equal to their black counterparts as South

(252)

African citizens, Hapo said.

Even those youth activists involved in the first 1976 uprisings — Hapo was 16 and in Std 5 at the time and had not returned to school up to 1980 — should be used to address pupils to secure a commitment to education.

He added "The TRC must be given time to do all these things. We entered this struggle not to revenge whites but to build a better world for white and black people — rather than to play political games and to score points".

● On August 11, 1980, the commemoration day for June 16 in the Cape Peninsula, more than 200 stones and half bricks rained down on to two vehicles driving past the Crossroads and Nyanga townships along Klipfontein Road in the late afternoon.

Both cars were surrounded by almost 1 000 youngsters from the local township and informal settlements who were boycotting schools.

During a commemoration service of the 1976 uprisings, they were inflamed and frustrated at hearing of a police confrontation that morning with commuters and independent taxi drivers supporting the three-month bus boycott against increased fares at the Nyanga East station.

All government vehicles and vehicles driven by whites were to be stopped. The first cars with black drivers showing the power salute were allowed through.

Afterwards two approaching cars driven by white drivers were stoned, overturned and torched.

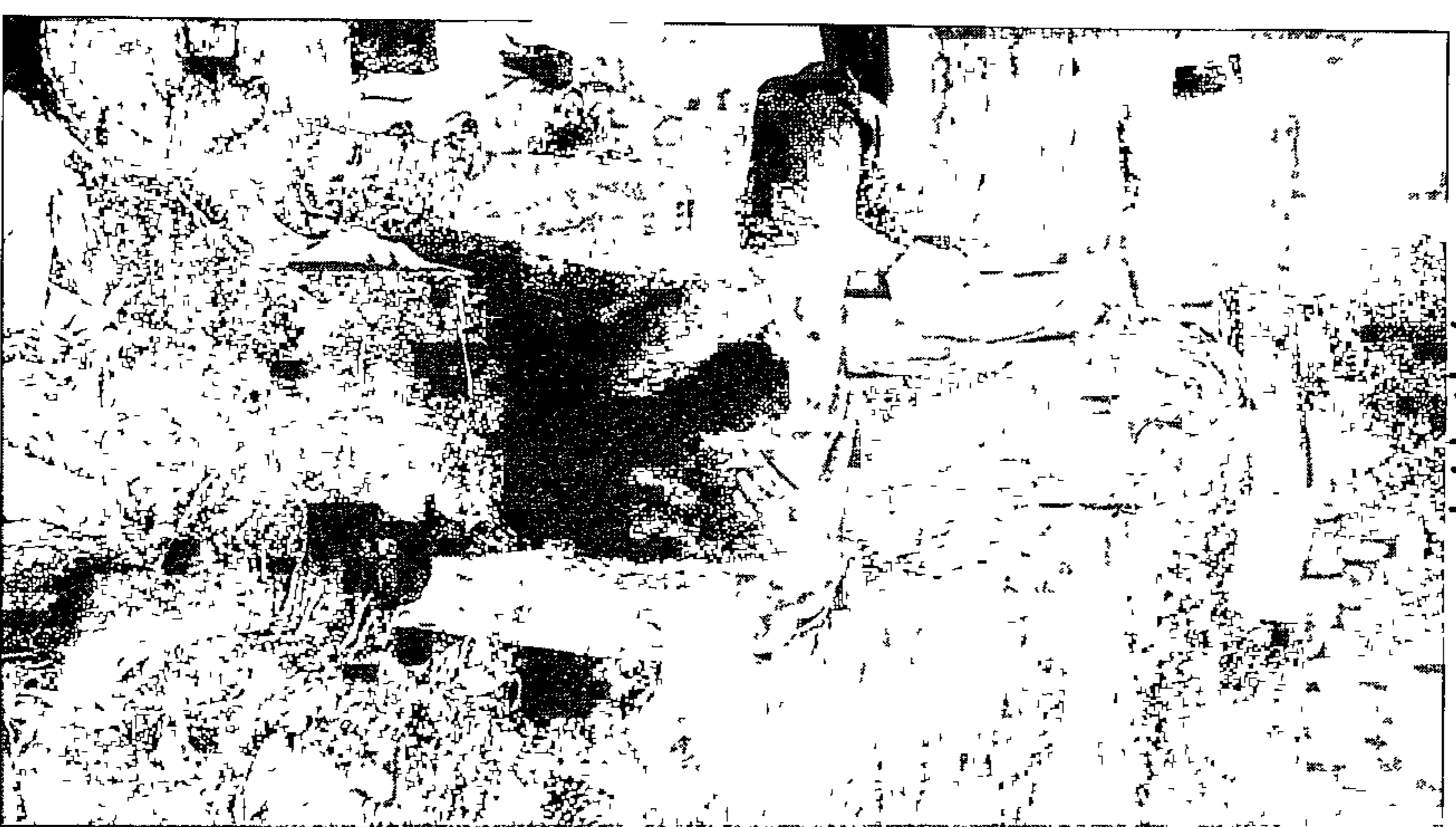
● The TRC hearings into key events under apartheid in Guguletu and Crossroads are set for the end of November.

● Looking back on tragedy — Page 11



RECALLING THE HORROR: Athia Hapo, 37, seeks reconciliation with families of victims who were convicted of having killed during unrest in the early-80s. He spent 11 years in prison.

PHOTOGRAPH BY GARTH STEAD



FLASHBACK: Frederick Jansen waits for an ambulance after being stoned on Klipfontein Road 17 years ago. Jansen died the next day.

ET 15/10/97



FLASHBACK A file picture of part of the large crowd that gathered in support of Oscar Mpetha and 18 others in Crossroads in 1981

Unemployment is now the lot of most trialists

MOST of the accused in the trial of Oscar Mpetha and 18 others are unemployed

Some have secured high-profile government posts, while others still work in community structures

Unemployment is rife in Guguletu, Nyanga East and Crossroads and is estimated around 60% and up to 90% in the informal settlements within these communities

Many youth leaders who committed themselves to "the struggle" are without formal employment but work for job-creation initiatives, even involving former uMkhonto weSizwe comrades

Others among the crowd of stone-throwing teenagers have since become school-teachers, headmasters and community representatives

Most long-term trialists have not received post-prison counselling to assist their re-integration into society and family life.

Ten of the 18 trialists of Case No SS — 3/1981 of the then Cape Supreme Court contracted tuberculosis in prison.

Three of the accused convicted for murder and terrorism, Bongani Mapondo, 31, Vusumuzi Khube, 31, and Afrika Hlapo, 31, were released as political prisoners in 1991 after a 24-day hunger strike to protest against their continued incarceration as "political pawns" during negotiations

The trials and tribulations of Oscar Mpetha and 17 others today

● Oscar Mpetha (71, guilty) — formerly of Nyanga East, was Western Cape ANC president, Nyanga Residents Association chairperson, Food and Allied Workers Union general secretary, and United Democratic Front president

His co-accused today reject state evidence that he had participated in



LEADER: Oscar Mpetha



RELEASED: Afrika Hlapo

the stoning of cars on August 11

He had only released a statement on the day of the two murders holding police accountable for their "provocation" of the youth through their heavy-handed action to break the ongoing transport boycott

● Bongani Raymond Mapondo (19, guilty) of Nyanga believed to be unemployed after being retrenched from Trauma Centre for Victims of Violence

● Welile Mazotana (21, acquitted) from New Crossroads is unemployed

● Morgan Makubala (19, guilty) of Guguletu, was stabbed to death at a local shebeen.

(252)
● Lawrence Lerotholi (18) was referred to Valkenberg Psychiatric Hospital, and found unfit to stand trial. He was allegedly badly assaulted in police detention

He is now mentally disabled, and is self-employed at a community self-help project for the disabled in Guguletu

● Stanley Nyongwana (guilty) now working at Fawu as an education officer.

● Christopher Sidlayiya (guilty) died of cancer

● Aaron Tshangama (28, guilty) of Khayelitsha, unemployed

● Vusumuzi Peter Mzuvukile Khube (18, guilty) of Nyanga East works at Robben Island project

● Alton Sabuwa of Nyanga East (guilty), retrenched by ANC

● Fumanekile Booi of New Crossroads (acquitted) unemployed but working voluntarily to create employment for former MK comrades

● Vuyisile Mzaza (21, acquitted) of Guguletu is unemployed

● Vincent Diba (21, guilty), of Nyanga East, ANC Member of the Western Cape Provincial Legislature

● Afrika Johannes Hlapo (20, guilty) of Barcelona informal settlement, Guguletu

He was assaulted in prison and received treatment at Groote Schuur Hospital for a damaged ear. He is employed as a security officer.

● Jeffrey Baardman (20, guilty) of Nyanga East is unemployed

● Mawuaka Jabavu (30, acquitted), caretaker at Oscar Mpetha High School, Nyanga

● Peter Hendricks (acquitted) of Section 2, Guguletu, is unemployed

● Nakanyaka Phike (16, acquitted) of Guguletu is unemployed

● Vusumuzi Mbetha (17, acquitted) of Section 2, Guguletu, is unemployed

ANC set on keeping tougher bail proposals

POLITICAL STAFF

THE ANC is determined to keep certain provisions in beefed-up bail legislation in spite of a chorus of opposition from human rights groups, says senior justice committee member Mr Willie Hofmeyr

Hofmeyr has hinted that the ANC may be willing to water down the provision in the Criminal Procedure Second Amendment Bill which requires magistrates to consider, when granting bail, the shock it would cause in the community

Human rights groups, including the Black Sash, have joined the Democratic Party in opposing the community shock provision. DP spokesperson Mr Douglas Gibson, who supports tougher bail conditions, says this provision smacks of old-style apartheid authoritarianism.

A provision the ANC is unlikely to make concessions on is the placing of the onus on those accused of serious crimes — rape, murder and armed robbery — to provide "exceptional circumstances" which would justify their release.

Existing bail legislation provides a far less stringent test in which an accused must show the court why his release is in

the interests of justice.

Hofmeyr said the provision would make it difficult for those accused of serious offences to win bail, but said it was not unreasonable

In the US "preventive detention" for manslaughter was obligatory

Human rights groups believe the measure undermines the accused's right to a fair trial and the principle of being "innocent before proven guilty"

The SA Institute of Race Relations said exceptional circumstances was a subjective concept — what would be exceptional for one magistrate would not be for another

The bill says a court "may take into account" the following in considering bail:

- If the nature of the offence or the circumstances under which the offence was committed would be likely to induce a sense of shock or outrage in the community where the offence was committed
- The safety of the accused might be jeopardised by his or her release.
- The public's sense of peace and security would be jeopardised by the release
- The release of the accused would undermine or jeopardise the legitimacy or efficiency of the criminal justice system

(252)

ET 15/10/97

'MAY GOD FORGIVE ME'

Pik's 'courageous' apology

(252)

CT 15/10/97

JOHANNESBURG: Pik Botha apologised yesterday for not doing enough to stop the torture and murder of the NP's opponents.

NO member of the former National Party government could claim he did not suspect that members of the police were engaged in illegal activities against government opponents, former foreign minister Mr Pik Botha told the Truth and Reconciliation Commission yesterday.

In an apology described by TRC chairperson Archbishop Desmond Tutu as "courageous", Botha said he and his former government colleagues should have done more to ensure that political opponents were not "killed or tortured" by the security forces.

Botha said he was not aware of any instructions by the cabinet or State Security Council (SSC) authorising illegal actions by the police or SA Defence Force. But he admitted words such as "eliminate" or "neutralise" could have been interpreted as orders to kill.

"Not one of us in the former government can say today that there were no suspicions on our part that members of the South African Police were engaged in irregular activities.

"The decisive question is not whether we as a cabinet approved the killing of a specific political opponent. The question is whether we should have done more to ensure that it did not happen. I deeply regret this omission. May God forgive me," Botha said.

His evidence stood in stark contrast to that of his former cabinet and SSC colleague Mr Adriaan Vlok, who said he had never suspected that policemen were killing



'SHOULD HAVE DONE MORE': Pik Botha



'CANNOT ACCEPT CRITICISM': Adriaan Vlok

opponents of the state and did not authorise or condone unlawful actions.

Vlok, who was minister of law and order from 1986 to 1991, said he was unaware of the murderous activities of the covert Vlakplaas unit, although he had on occasion visited Vlakplaas to thank members of the unit for their work and encourage them in their efforts to combat "the revolutionary forces".

"I did not know about the crimes which have now been uncovered. I can assure the commission that innumerable questions were asked in Parliament which I had investigated and I never received any information from my subordinates which indi-

cated that my people had been involved.

"I cannot accept the criticism that I should have known."

Vlok conceded, however, that the language used by government structures and by himself could have led to a perception by members of the police that they were expected to combat the government's opponents by unlawful means.

Earlier, Botha was quizzed about the 1981 bombing of the ANC London offices and the 1988 assassination of ANC representative Dulcie September in Paris.

Botha said he had no prior knowledge of either incident.

"It came to us at foreign affairs as a severe shock. Whether you

liked Dulcie September or not does not matter."

Botha said operations outside the borders by the SADF were often carried out without his knowledge.

He cited as examples the abortive Seychelles coup, the continued support for Renamo after the signing of the Nkomati Accord with Mozambique, and the air strikes on Gaborone, Harare and Lusaka which scuppered the Eminent Persons Group, a 1985 Commonwealth initiative to get the opposing groups to negotiate.

He said the military had viewed him as "obstructionist" but denied that the security forces had pursued their own foreign policy goals in defiance of the cabinet. "The cabinet was running the country. There is no doubt about that" — Own Correspondent



LEADER PAGE

CAPE TIMES
WEDNESDAY, OCTOBER 15, 1997

The hard task of judging the judges

(552) CT 15/10/97

GERALD GORDON QC

THE Truth and Reconciliation Commission has indicated that it will probe the role judges and magistrates played regarding human rights during the apartheid era

This can be tied up with the recent statements by Mr Dullah Omar, the Minister of Justice, as to the courses of re-orientation for judges who served before 1994

He said (Cape Times, September 12, 1997) they would participate in a five-year programme costing R15 million "to help them to adopt a culture of justice and human rights brought about by the new constitution"

The orientation programme, Omar said, was necessary "to eliminate the culture of racism, repression, sexism and intimidation that has persisted since the 1994 election"

To get a clear picture of what the programme involves, one must distinguish between orientation courses for new judges and continuing judicial education courses for all existing judges

The Canada-SA Justice Linkage Project was intended for both operations

As to apartheid-era judges, most of the Divisions of the former Supreme Court took steps on their own initiative to arrange seminars (for instance, a seminar was held at the University of Cape Town) at which instruction was given on the new Constitution This should have been organised as part of a programme of continuing legal education

All this is stated here to preclude the Truth Commission, in advance of their considerations, from forming any assessment of apartheid-era judges based on the minister's

strong (and in some ways unfair — with particular regard to "intimidation") criticism of pre-1994 judges, as quoted above

Indeed Omar, speaking during the *Ori Camera* TV interview on Sunday, September 21, said: "Not all judges willingly implemented harsh apartheid laws."

"There have been many occasions when magistrates and judges have indicated that they regretted that they had to apply a particular law, but they had to do so because that was the law. So I do not want to be misunderstood."

"There are many judges and magistrates who did their best to protect civil liberties in their country and to mitigate the effects of harsh apartheid laws."

Speaking for myself, I would submit that for the most part, the judges as a whole were the man, real bulwark against oppression

It could be said that there were three categories of apartheid-era judges: those who were ideologically opposed to the institutionalised and compulsory racial discrimination of the authoritarian system of government; those who in their hearts favoured it and the neutral judges who accepted the position stoically without comment.

In this context, mention must be made of the matter of interpretation of the laws While a judge was bound by the sovereignty of Parliament and had to carry out the statutes as he found them, there was often ambivalence in interpretation. And here one found judges who inherently leaned towards the human rights of the individual giving the law a meaning which was in *favorem libertatis*, whereas judges who from their disposition were executive-minded, would give

the harsher view of the provision, supporting the state

Another aspect is that in performing their judicial duty of implementing the positive law of the brutal legislation, there was frequently an omission to address the fact that the activities of the security police were often not at all within the ambit of the law, but indeed illegal.

Nowhere in the security legislation does one find torture, assault, mayhem and killings — all the evil acts of which we are hearing at the Truth Commission — sanctioned by the statutes. If they were so sanctioned and therefore legal, what would be the need now to ask for amnesty?

In applying the security legislation the record of the Supreme Court prior to 1990 has been seriously marred. It is here that interpretations were often given which favoured the executive.

In *The Pathology of a Legal System, Criminal Justice in South Africa* (University of Pennsylvania Law Review 1980, Vol 128 at 615) Sydney Kentridge SC said: "The performance of judges in the interpretation of security and procedural legislation has been mixed."

"On the positive side there has been some attempt to give a restrictive interpretation to those provisions of the Terrorism Act placing the burden of proof on the accused. On the negative side, however, the courts have shown a marked reluctance to permit evidence of ill-treatment by the person most concerned, namely the detainee himself."

An example may be cited, a detainee's wife had received a smuggled note from him saying that for 28 hours relays of policemen had interrogated him without allowing him to sit down. When exhausted he fell to the

floor. They threw cold water on him and dragged him to his feet. The wife sought an urgent interdict against continuation of this form of interrogation. The police made affidavits of denial. Counsel for the wife asked the court to allow her husband to be brought to give evidence. The judge refused. The Appellate Division upheld the refusal by three judges to two (*Schermbrucker v Kinnat* NO [1965 AD]).

In a later case the fathers of some youths claimed to interdict the police from assaulting them during interrogation but, because of the earlier decision, tried now merely to place affidavits before the court. This too was refused (*Cooper v Minister of Police* [1977 TPD]).

The Appellate Division in the 1980s, under Chief Justice Rabie, was known for favouring the executive. Many instances may be cited of judgments given in provincial divisions in favour of individual liberty only to be upset by the Appellate Division.

The fact that two courts, albeit of unequal status, could give diametrically opposed interpretations showed how ambiguous the language of statutes could be.

Thus, in *Rosson v Sachs* (1964 AD), the Cape Division (two judges) held that a detainee could have access to reading matter, but the Appellate Division (Chief Justice Oglive-Thompson and four judges) reversed the ruling.

The handling of alleged confessions shows a similar grey area.

Despite the inability of the Supreme Court to impeach parliamentary legislation, it was not prevented from declaring subordinate regulations invalid on the grounds that they were contrary to the rights of the sub-

ject. Examples include the upholding of the right of a wife to remain in an urban area (the Korman case) and of a "black" employed by the same employer for more than 10 years not to lose his urban right by going home on annual holidays (*Rikhotso case*).

Again we find that the right, which judges had to visit any person without notice and to interview detainees was exercised by some judges with conscientious diligence and often effective results, while others skipped their duties in this respect or performed them indifferently.

Finally, in addition to the limitations imposed by the sovereignty of Parliament, there were limitations other than constitutional and legal ones on the functioning of a judge

The main limitation in this respect was the human one.

"Judges," said American Justice Cardozo, "are subject to human limitations" and as Shakespeare makes Euphrontius say in *Anthony and Cleopatra*, "man's judgments are the parcel of their fortunes"

To human fallibility, inherent in us all must be added a judge's history, personal affiliations, mental make-up, family background, sex (only two women were on the bench under the Nationalists), race-group (only whites were judges) and class — all of which, however unconsciously, must affect a judge's attitudes, opinions and actions or inaction.

The Truth Commission will surely take note of this also.

Gerald Gordon QC is a former leader of the Cape Bar and former president of the Bar Council.

Testifying ...
Adriaan Vlok
giving testimo-
ny at his
amnesty
application
yesterday to
the Truth and
Reconciliation
Commission.
Vlok told the
TRC that while
it was never his
intention to
order police to
engage in
illegal activities,
some of the
things he said
may have been
misinterpreted
by those under
him.

Tragedy that NP didn't listen – Vlok

Former govt ignored those who spoke out, while ex-minister says illegal activities not official policy

CORRESPONDENT

Former law and order minister Adriaan Vlok told the Truth Commission it was "a tragedy" that the National Party government did not listen to fellow South Africans earlier.

He was responding to questions by a commission panel why he ignored – and at times even signed detention orders for – people speaking out about security force abuses and gross violations of human rights.

Testifying at the commission's hearing into the State Security Council, of which he was a key member, Vlok started with a tough line, stating categorically that neither the council nor the cabinet had ever ordered the security forces to act illegally.

He confirmed that the government decided to "answer vi-

olence with violence" and to "get in the first blow" in some situations, but their first option was always lawful operations.

Although it became clearer by the day that the police sometimes acted illegally, this was

Police only acted illegally in exceptional instances

only in exceptional instances, Vlok said.

But he then qualified his testimony, acknowledging that words and phrases such as "take out", "eliminate", "neutralise" and "destroy" were in common use at the time.

"With my knowledge of and

insight into the workings of the council, I can state that it took no decisions to act illegally.

"But at the same time, I now know it is incontrovertible that people who did not experience the spirit and intention of the (council) meetings could very easily have made other conclusions and apparently have indeed done so.

"I realise now with shock that such use of language apparently led to illegal activities by policemen."

A further qualification was that the council ordered "stratkom" (strategic communications) operations, some of which could be interpreted as irregular or even illegal, Vlok said.

He also acknowledged that in his speeches and comments at events like meetings and medal parades, he might have

used words and expressions that were interpreted by those under his authority as "something other than what I intended – namely, as instructions to act illegally".

Vlok said he was prepared

Vlok claims he never knew what went on at Vlakplaas

to accept responsibility for this, but wanted to make an exception in the case of the police counter-insurgency unit at Vlakplaas.

"I personally never knew about the crimes that are now coming to light. I was never prepared to tolerate such

things and I would have acted drastically against them."

Closely questioned about how security force abuses could have happened without the government's knowledge, Vlok said the communication system in the line of command was defective and he was misled in reports to him. Also there was no effective mechanism in place to prevent such abuses.

"It was a mistake – we could have asked more, we could have delved deeper. It left the door open for people to have done these things."

Vlok, who is applying for amnesty for ordering the bombing of Khotso House – allegedly on the instructions of President P W Botha – said he offered his unconditional apology to any innocent people or organisations who suffered as a result of his decisions.



Time for reconciliation .. Pik Botha and Archbishop Desmond Tutu embrace after the former foreign minister's 'courageous' apology before the TRC

Pik tells TRC he regrets 'failing to turn tide of apartheid'

STAFF REPORTER AND REUTERS

Former foreign minister Pik Botha yesterday apologised for failing to turn the tide of apartheid and for his reluctance to investigate the killing and torturing of political opponents by the security forces.

Denying he had personally authorised the killing of political rivals, Botha told the Truth and Reconciliation Commission he had failed to bring an end to apartheid, which he said he recognised as immoral as far back as the early 1970s.

In an apology described by TRC chairman Archbishop Desmond Tutu as "courageous", Botha said he and his

former colleagues should have done more to ensure opponents were not killed or tortured by security forces

"I realise that I could have done more to turn the tide of apartheid earlier I could have and should have done more to find out whether the accusations that government institutions were killing and torturing political opponents were true

"Not one of us in the former government can say today that there were no suspicions on our part that members of the police were engaged in irregular activities," he said.

Botha said the cabinet at the time never approved the killing of individual political oppo-

nents, but added "The question is whether we should have done more to ensure that it did not happen I deeply regret this omission May God forgive me"

Botha said that a 1986 Commonwealth Eminent Persons' Group (EPG) mission had nearly brokered an end to apartheid but the military had sabotaged the process by cross-border raids

The EPG mission failed after the SADF launched raids on suspected ANC bases and properties in neighbouring Zimbabwe, Zambia and Botswana.

"The lack of success of the EPG was the greatest disappointment in my 17-year career as minister of foreign affairs It

could and would have saved South Africa a lot of pain, a lot of wounds, a lot of agony"

Botha acknowledged that South Africa had authorised cross-border raids by security forces on neighbouring states, but absolved his ministry of ordering the raids.

"In these matters a clear and consistent divergence of views existed between the security forces and foreign affairs

"In the few instances where foreign affairs acquiesced in cross border raids, it did so on the strength of convincing evidence produced by the security establishment to the effect that a pre-emptive strike was essential to save the lives of innocent

South African citizens," Botha said.

He was quizzed about the 1981 bombing of the ANC's London offices and the 1988 assassination of ANC representative Dulcie September in Paris Botha said he had no prior knowledge of either incident.

Botha said operations outside South Africa's borders by the SADF were often carried out without his knowledge. He cited as examples the abortive Seychelles coup and the continued support for Renamo after the signing of the Nkomati accord with Mozambique.

▶ Tragedy NP didn't listen
Page 3

(252) SPAN 15/10/97

Previous govt's cabinet should have asked for amnesty

Stephen Lauffer

FORMER National Party (NP) ministers Pk Botha and Adriaan Vlok told the truth commission yesterday that the previous government's entire cabinet should have applied for amnesty.

Testifying at a hearing on the state security council, both men denied that the council and cabinet had issued illegal orders to the security forces. Such instructions would in any case not have been minuted, Botha said. Real power had rested in the hands of former presidents PW Botha and FW

de Klerk. The law did not enable former ministers to apply for amnesty because it would have required them to name specific acts, and they had not been responsible for any, said Botha.

Neither former minister volunteered information on the functioning of covert activities against opponents of apartheid except to say they had not been informed of details regarding targets and methods used.

Commissioners said they had gained the impression that two parallel governments had operated — the cabinet, and the security services act-

ing under a separate set of guidelines.

Botha said his had been sins of omission. He "could and should have done more" to discover whether accusations that government institutions were killing and torturing political opponents were true, and to turn the tide of apartheid earlier.

He has not made an individual amnesty application. The law governing the commission provides for amnesty for acts of omission.

Botha said he felt acceptance by the NP leadership of joint responsibility for its part in the conflicts of the past

(252)

ed 15/18/97

Pik, Vlok

would have met a similar move from the African National Congress and could have contributed to reconciliation. Such a gesture could have encouraged other supporters of the former government to apply for amnesty.

Vlok has applied for amnesty for the bombing by police of Khotso House while he was law and order minister.

Echoing testimony last week by police and defence force generals, he said illegal actions by policemen had resulted from their interpretation of instructions and the difficult situation on the ground. Illegal actions had not been ex-

pressly ordered. War psychosis had entrenched a particular military language in which such words as "execute" were taken as an order to kill.

Sapa reports that he said "As a result of this misunderstanding, people actually died. That is why I am apologising. A mistake was made."

He had visited Vlakplaas to encourage the killer unit to continue with its good work, but was only now realising what the policemen stationed there had really been involved in.

Picture: Page 3



Guarded: Pik Botha addresses the commission

I feared my phone was bugged, Pik tells TRC

JOHN YELD
ON THE TRUTH COMMISSION

(252)
ARG 15/10/97
Johannesburg - Former foreign minister Pik Botha created a separate telephone technical division for his department after he became suspicious that conversations were being bugged by intelligence services.

He told the Truth and Reconciliation Commission yesterday that this division took over responsibility from the National Intelligence Service for checking his department's telephones in its offices and diplomatic missions overseas.

Earlier, he confirmed that former state president PW Botha was in the

habit of summoning individual cabinet ministers for informal meetings, which were not minuted, before or after official State Security Council meetings.

"I became suspicious that these conversations were being taped and then I started guarding my words," he said.

Glenn Goosen, leading evidence for the Truth Commission, commented: "You were probably very wise."

Mr Goosen asked Mr Botha whether he had ever suspected that Mr Botha authorised illegal activities at such informal meetings. He replied "I have no evidence whatsoever."

Truth Commission reports, page 4



Greetings: former foreign minister Pk Botha shakes hands with Truth Commission chairman Archbishop Tutu

REUTERS

Botha: 'Suspicions' over

SA's post-Rubicon air strikes

(252) *APB 15/10/97*

Johannesburg - Former foreign affairs minister Pk Botha told the Truth Commission he did not know whether the government had tried to scupper the Eminent Persons Group initiative in 1986.

Referring to air strikes on Harare, Gaborone and Lusaka, he said "I have my suspicions, but a suspicion is not a fact. I don't know what went on in the minds of others."

The Eminent Persons Group was a Commonwealth initiative to try to broker a peaceful political settlement. Mr Botha said then president PW Botha and defence minister Magnus

Malan had told him the raids were essential to prevent ANC incursions into South Africa.

He said establishment of the group followed Mr Botha's "Rubicon" speech in 1985. "I myself drafted that part of the speech in which the phrase 'today we have crossed the Rubicon' appeared. President Botha retained the sentence but removed what preceded it: the release of Nelson Mandela and the government's intention to dismantle apartheid. The effect of that speech on the world, and on many South Africans, was that of a bucket of iced water in the face."

London bomb 'upset' Pk

Johannesburg - Members of the former security establishment stole a diplomatic bag in a port and copied it secretly into a former foreign minister Pk Botha told the Truth Commission.

He was responding to a question on whether he was aware that recordings of evidence before the commission were government in control of the bombing.

National Congress offices in London and that components for the bomb were smuggled into Britain in a diplomatic bag.

Mr Botha said he had not been aware of approval of the bombing, which was carried out by a security forces team.

He said that he and his department had been "upset very much" about the bombing.

A Reuters correspondent

NP's turning of deaf ear to S Africans (252) 'a tragedy'

RF 15/10/97

Johannesburg - Former Law and Order Minister Adriaan Vlok told the Truth Commission it was "a tragedy" the National Party government had not listened to fellow South Africans earlier.

He was responding to questions by a commission panel on why he ignored - and at times even signed detention orders for - people speaking out about security force abuses and gross violations of human rights.

Testifying yesterday at the TRC hearing on the State Security Council, of which he was a key member, Mr Vlok started with a tough line, stating categorically that neither the council nor the cabinet had ordered the security forces to act illegally.

He confirmed that the government decided to "answer violence with violence" and to "get in the first blow" in some situations - but its first option was always lawful operations.

Although it became clearer by the day that the police sometimes acted illegally, this was only in exceptional instances, Mr Vlok said. But he then qualified his testimony, acknowledging that words and phrases such as "take out", "eliminate", "neutralise" and "destroy" were in common use at the time.

"With my knowledge of, and insight into, the workings of the council, I can state that it took no decisions to act illegally.

"But at the same time, I now know it is incontrovertible that people who did not experience the spirit and intention of the (council) meetings could very easily have made other conclusions and apparently have indeed done so."

He also acknowledged that he might have used words and expressions that were interpreted by those under his authority as "something other than what I intended - namely, as instructions to act illegally."

Mr Vlok said he was prepared to accept responsibility for this, but wanted to make an exception in the case of the police counter-insurgency unit at Vlakplaas. "I personally never knew about the crimes that are now coming to light. I was never prepared to tolerate such things and I would have acted drastically against them."

Vlok denies support for Witdoeke

'I saw no evidence of police role in KTC rampage'

ARG 15/10/97

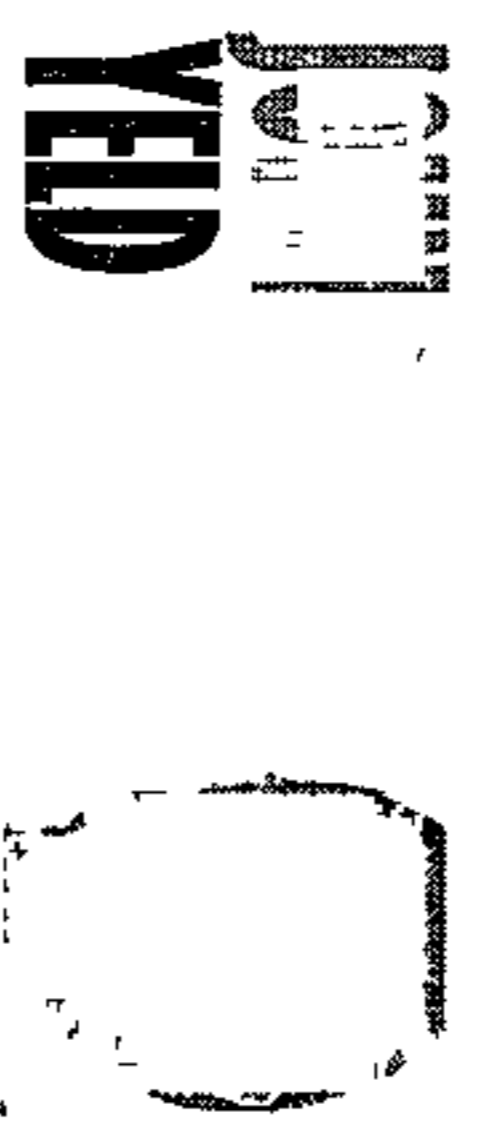
(255)

Johannesburg - Former Law and Order Minister Adnaan Vlok told the Truth Commission today that he was not aware of any police support for the "widoeke" vigilantes who destroyed the KTC squatter camp near Guguletu in 1986.

His testimony is in sharp contrast to evidence the commission heard at a special hearing in Cape Town earlier this year.

At that hearing, several witnesses said police had actively assisted the widoeke during their rampages over several days against the "comrades".

At that hearing, the commission released a secret document from a Western Cape sub-committee of the government's joint management system to the State Security Council



(SSC) secretariat, asking permission to sponsor a cattle slaughter for the widoeke to "celebrate" the destruction of KTC

Mr Vlok told the commission's SSC hearing here today that if policemen had not taken action against people engaged in violent attacks - such as the widoeke - they would have been acting wrongly. "I was deputy minister at the time - I at no time had any evidence of any support by the



ASSOCIATED PRESS
I swear: Adnaan Vlok takes the oath

SA Police for the widoeke," he said. Mr Vlok also told the commission that a two-year Supreme Court case for damages against the police by people who had lost their property and

possessions during the KTC attacks had ended with an out-of-court settlement

There had been no conclusive proof during this case that police had in fact assisted the widoeke

But advocate Glenn Goosen, leading evidence for the commission, then pointed out to him that he (Mr Vlok) had signed a certificate preventing such evidence from being led to the court

Mr Vlok responded that he could not remember signing such a certificate

Mr Vlok denied he had ever propagated or encouraged so-called "black-on-black violence"

He said he was justified in saying illegal police actions were "exceptions"

Only 150 policemen from a force of more than 100 000 had applied for amnesty - "a percentage of about 0,05% or 0,1% - I can't work it out now", said Mr Vlok

"But my principled view is that one illegal action is one too many, one death is one too many, and no-one must doubt that"

Repeating his evidence that the SSC and the cabinet had never ordered illegal actions - other than some "Stratkom" covert propaganda operations - Mr Vlok also denied there had been any other forum where politicians had ordered or approved illegal actions by the security forces

"There were no such discussions elsewhere that I was aware of. It just wasn't like that," he said

'No holds barred' - Meyer

Nat fear may have dictated crackdown

(252) April 16/10/92

Johannesburg - Fear may have prompted the former government to develop a "no-holds-barred, anything goes" response to the liberation movements, ex-deputy cabinet minister Roelf Meyer suggested to the Truth Commission.

His cabinet colleague, Leon Wessels, told the commission he had lacked courage to speak out. He said "a dirty war" had been fought by all sides in the political conflict.

The two were testifying yesterday at the commission's hearing into the functioning of the State Security Council and the National Management System. Both made frank submissions that were described by TRC chairman Archbishop Desmond Tutu as "remarkably candid".

Mr Meyer, who now co-heads the United Democratic Movement with Bantu Holomisa, was deputy law and order minister from December 1986 to March 1988, with the brief of co-ordinating the NMS.

Mr Wessels, who became deputy



ON THE TRUTH COMMISSION

chairman of the Constitutional Assembly after transition in 1994, Meyer testified that he never had any knowledge of any organised attempt by the government to identify specific targets or plan their destruction "on the basis of a conspiracy or plot".

But he acknowledged individuals might have acted illegally, under the impression they were authorised to do so or that their actions had the blessing of the government.

"The fact that so many transgressions took place over such a lengthy period is an indication in itself that

Nats 'did not question'

A State Security Council document proposing the release of Nelson Mandela was circulated in 1988 but was withdrawn and destroyed, former deputy cabinet minister Leon Wessels told the Truth Commission.

He described this incident to illustrate his point that National Party politicians worked on a "need to know" basis and did not question anything that did not concern them directly.

He said the executive of a State Security Council working group was instructed to establish a strategy in terms of which Mr Mandela could be released.

During discussions, it became clear that three of the group - Justice Minister Kobie Coetzee, his director-

Wessels torn between terror and state duty

Johannesburg - Former deputy cabinet minister Leon Wessels told the Truth Commission that while he could not condone violent, unlawful acts by the security forces, he could not condemn those responsible.

"I cannot disown them because we were on the same side and fought for the same cause, namely, law and order as we saw it, and also to ensure that this country would not be made ungovernable," he said.

He cited the example of former Vlakplaas security policeman and one-time Civil Co-operation Bureau operative Chappies Kloppe, who had

more vigilant action was called for. "If blame is to be attributed to the politicians it is one of omitting to take more vigilant action when danger signals presented themselves."

Mr Meyer, who said he accepted responsibility for such omissions, said it had not been "the in-thing" among NP MPs to ask questions.

Responding to commissioner Yasmin Sooka's question of where the blame lay for gross human rights abuses by the security forces, Mr Meyer answered "I guess nobody has the answer. Maybe it's just that things developed over a period of time, that we were all part of a frame of mind believing that there was an enemy that had to be wiped out, and there wasn't a just cause on the side of the majority of South Africans."

"Maybe in the end it was fear that dictated. Looking back now it's easy to make judgments, to say 'How the hell could this happen?', but it was different then."

Archbishop Tutu suggested to Mr Meyer that the NP government had

developed an "anything goes, no-holds-barred" response to resist the perceived total onslaught against it.

He replied "I think you've said it. To a great extent, unfortunately, that is what happened. And it was across the spectrum, not necessarily just related to the security forces."

Mr Wessels said he and his NP colleagues had not confronted the injustices of the time head-on.

"I do not believe the political defence of 'I did not know' is available to me, because in many respects I believe I did not want to know."

"In my own way I had my suspicions of things but because I did not have the facts to substantiate my suspicions or I had lacked the courage to shout from the rooftops, I have to confess that I only whispered in the corridors. That, I believe, is the accusation that many people may level at us."

He said he was now more than ever convinced that apartheid had been "a terrible mistake that blighted our land."

confessed to him he had been part of a group who attacked the home of Institute for a Democratic Alternative for South Africa leader Ivor Jenkins.

Mr Wessels said he was extremely angry - "ek was die hoenders in" - and asked why they had done it. Kloppe replied "Because we thought they were giving you a hard time."

Mr Wessels said this was an example of how the National Party/politicians' "hard speeches" and rhetoric had been interpreted by the "Chappies Kloppe of the world" as justification for terrorist activities.

"And that is the difficulty we were in," he said.



ASSOCIATED PRESS
Pensiver: Leon Wessels listens to his former boss Adriaan Vlok testify at the TRC

Fear dictated govt's dirty war

OWN CORRESPONDENT

JOHANNESBURG. Fear dictated the National Party government's response to the liberation struggle, resulting in a "dirty war" in which no holds were barred and no questions asked, former cabinet minister Mr Roelf Meyer told the TRC yesterday.



OPENING UP: Roelf Meyer

Although political leaders should take "political responsibility" for some atrocities committed by the security forces, everyone in government shared the blame for contributing to the climate in which these atrocities were committed, Meyer said.

"It was just a question that things developed over a period of time, so that in the end we were all part of a frame of mind that believed there was an enemy that had to be wiped out. Maybe in the end it was fear that dictated everything."

"In that context, it is probably not possible to put blame at a specific place. It was all over," Meyer said, when asked by TRC commissioner Ms Yasmin Sooka who should be blamed for the killing and torture of the government's opponents.

Meyer and Mr Leon Wessels testified about the activities of the State Security Council during the 1980s.

"During the mid-1980s... it was not the in thing to ask questions," Meyer said.

"If you hear on a daily basis that people are being killed, you fall into a frame of mind where you stop asking questions."

"Looking back now it is easy to make judgments, to say how the hell could this have happened, but it was different then" — Sapa

'IT HAPPENED UNDER OUR NOSES'

NP's Wessels: Yes, we

(202)

knew about atrocities

CT 16/10/97

JOHANNESBURG: No one could claim not to have known that police were torturing detainees, Leon Wessels told the TRC yesterday, in sharp contrast to his colleague Adriaan Vlok's denials.

In the frankest submission yet by a National Party politician to the Truth and Reconciliation Commission, former deputy law and order minister Mr Leon Wessels yesterday admitted the former government failed to exercise proper control over its security forces.

This failure had created a present-day problem for the TRC — tracing the political source of orders which led to illegal actions by security forces.

"If we had managed them properly, you would not have to listen to evidence that (the security forces) believed they acted with authority, and us saying we did not grant that authority," Wessels told a special TRC hearing here.

"The relationship between the security forces and National Party politicians in general was not an open/transparent one and therefore we did not manage the security forces/intelligence services properly," he said.

As deputy law and order minister in the mid-1980s, Wessels said, he had the specific responsibility of managing the states of emergency.

He was testifying on the second day

of the TRC's special hearing into the activities of the now-defunct State Security Council, which advised the government on national security policy.

Wessels said he would not condemn soldiers and policemen who committed violent, unlawful acts "I cannot disown them because we were on the same side and fought for the same cause, namely law and order as we saw it, and also to ensure that this country would not be made ungovernable."

On whether he knew of illegal actions perpetrated by the security forces, he said: "I do not believe the political defence of 'I did not know' is available to me because, in many respects, I believe I did not want to know."

"In my own way I had my suspicions of things that had caused discomfort in official circles, but because I did not have the facts to substantiate my suspicions or I lacked the courage to shout from the rooftops, I have to confess that I only whispered in the corridors."

known that police were torturing detainees, he said.

The torture allegations had been reported in the press and raised in Parliament by Progressive Federal Party politicians such as Dr Alex Boraine, now TRC deputy chairman.

"It all happened right under our noses. That is why I don't believe I can stand up and say 'I did not know'."

His statement contradicted the earlier evidence of former law and order minister Mr Adriaan Vlok, who insisted that he never knew his policemen were engaged in the widespread torture of activists.

Vlok said he had been kept in the dark and lied to by senior police officers about illegal actions by policemen.

"These things were happening on the ground. How could they be conveyed to me? Only through the two police commissioners (General Johann Coetzee and his successor, General Johan van der Merwe)."

Wessels said: "It may be blunt, but I have to say it since the days of the Biko tragedy, right up until the days of the hostel atrocities... the NP did not have an inquiring mind about these matters."

Steve Biko died in detention in 1977 of head injuries — Sapa



When the free shall set the truth

IN HIS recent column, Hermann Gilmore questioned whether the Truth Commission's final report would be history or polemic. CHARLES VILLA-VICENCIO provides an answer.

IT IS vitally important that the Truth and Reconciliation Commission heeds all the good advice, forewarnings and sound counsel available as it begins the process of writing its final report. It is, at the same time, ominous when some commentators, such as Hermann Gilmore (Cape Times, October 9), criticise the efforts of the commission with more than a hint of paranoia, as if they have access to some phantom version of the report — which no one in the TRC has ever seen.

This is particularly so because Gilmore declared an offer to assist the commission in drafting the chapter on the historical context of their work. Allow me to endeavour, yet again, to allay the fears that the story we seek to tell will reflect some weird Orwellian notion of "the truth", which Gilmore mischievously calls an "officially sanctioned" history.

The *Promotion of National Unity and Reconciliation Act*, No 34, 1995, requires that the commission reports on all gross human rights violations. All allegations, whoever the alleged person or whatever the organisation, are scrutinised and assessed in an unbiased and thorough manner, with a view to uncovering the essential truth, or otherwise, of such allegations. The commission's

understanding of its mandate, as well as the methodology used in making its findings, will be carefully articulated and documented in the report.

To be unbiased and impartial in the hearing, investigation and finding processes does not, however, imply moral indifference. To "establish as complete a picture as possible" involves holding up a mirror to the past — enabling the nation to acknowledge what happened. It involves owning the past, in the sense of accepting what went wrong, rather than denying or rationalising what happened.

Given the link between truth and reconciliation articulated in the TRC Act, the commission is required to promote reconciliation on the basis of acknowledgment. To ignore, or fail to acknowledge, for example, the extent to which the apartheid state, both legally and illegally, deployed its resources to systematically violate the rights of South Africans is to fail to give a full account of the past.

But, it is often asked, by whose standards ought this judgment to be made? The short answer is *human rights* standards as articulated in international instruments, protocols and conventions, which are accepted by the world as a basis for what is decent, just and morally acceptable.

We cannot both have our cake and eat it. To rejoin the world is to accept the values and norms of decency that sustain it. The

essential crime against humanity, suggests Denys Schreiner, is not primarily the detail or nature of the actual deeds involved in a particular system that is judged to be such a crime, it is the fact that certain political structures resulted in sections of society being seen as less than fully human. It condemns the identified group to suffering and violence as a matter of birth — over which

To be unbiased and impartial in the hearing, investigation and finding processes does not imply a moral indifference, but is an attempt to enable the nation to acknowledge the past.

the individual concerned has no influence, control or escape. It excludes a section of the population from the rights afforded others. The wasted years of apartheid have underscored this crime a thousand times. Moral judgment, of whatever kind, is, of course, never helpful when it degenerates into single-minded arrogance. Madame de Staël (the late 18th-century French intellectual) suggested that "to understand all is to forgive all". Duke de Broglie observed later that "we should beware of too much explaining, lest we end up with too much forgiving".

Neither aphorism is satisfactory, although both deserve consideration. Our task is to explain *why* and *how* gross human rights violations of the most horrific kind could have happened. We are obliged to do so, not as a basis for wallowing in the macabre, but as a way of knowing the depths to which human nature is capable of descending and as a basis for contributing to

the process of ensuring that similar atrocities do not occur in the future.

If we do not understand *why* and *how* the past happened, we are likely to repeat it. History is cluttered with the wreckage of victims rising above their past only to the extent of appropriating the patterns of abuse of their oppressors. Albert Camus warned that "the revolutionaries of yesterday too frequently become the hangers of tomorrow".

Karl Jasper, in reflecting on the importance of what he saw as the many different levels of guilt that contributed to the death of six-million Jews and others in Nazi concentration camps, suggests that acknowledging the capacity for evil in *all* humanity as well as the responsibility of *all* humanity to correct what is wrong, constitutes the only moral basis for renewal. He saw no hope of tapping into what he called "a new source of active life" without this acknowledgment.

Acknowledgment by all South Africans of what happened in the apartheid years — as well as the recognition that humanity has the capacity to do it again (in one way or another) is surely among the most important legacies that the TRC can bequeath the nation. It involves acknowledging the truth about the past *and* about human nature.

Anfje Krog haunts us in her struggle with the truth. "I hesitate at the word," she writes. "I am not used to using the word *lie*. The moment the lie raises its head, I smell blood. Because it is there where truth is closest."

Which truth? By what process? We can take some solace in the possibility (and the need) to affirm a high degree of "factual" truth. The need is to write a report that provides

(252) CT16/10/97

the basis for a new communal and inclusive memory. The notion of contributing to the emergence of an inclusive heritage on which the nation can draw in its pursuit of a human rights culture is a crucial part of the work of the commission. This decidedly does not include the imposition of a "master narrative". Indeed, there is a case to be made for what has been called the story of an "unreconciled past". There is a need to recognise the depth of past differences as an incentive to use above them.

The story of the past is a story of a multitude of nuances and layers of truth that capture the motives and perspectives of those who shaped its agony and triumphs. The TRC record will, itself, necessarily only be a partial record. It will be open to criticism — and will be criticised. It is, at the same time, hoped that it can be a basis for an inclusive recognition that says "Yes, that is who we were (and to an extent still are) as a nation".

Our aim must be to paint a big picture of the past, drawing on the basis of primary data that we have at our disposal, while accessing the research undertaken by others outside of the TRC who have, over the years, struggled to make sense of the South African struggle.

The finer detail of the story will need to be added as the full impact of the drama continues to be assessed by scholars, journalists, poets, artists and citizens of this country for generations to come.

Charles Villa-Vicencio is director of research, TRC. This is an extract from a paper delivered at the Stellenbosch University round table discussion on the TRC.

'All in NP govt share blame for atrocities'

Star 16/10/97
(252)
By ROBERT BRAND

Fear dictated the National Party government's response to the liberation struggle, resulting in a "dirty war" in which no holds were barred and no questions asked, former cabinet minister Roelf Meyer told the Truth and Reconciliation Commission yesterday.

Although political leaders should take "political responsibility" for some atrocities committed by the security forces, everyone in the government shared the blame for contributing to the climate in which these atrocities were committed, Meyer said.

"It was just a question that things developed over a period of time, so that in the end we were all part of a frame of mind that believed there was an enemy that had to be wiped out. Maybe in the end it was fear that dictated everything.

"In that context, it is probably not possible to put blame at a specific place. It was all over," Meyer said, when asked by commissioner Yasmin Sooka who should be blamed for the killing and torture of the government's political opponents.

Meyer was deputy minister of law and order from 1986 to 1988, and in charge of the National Management System, the body mandated to co-ordinate the government's counter-revolutionary strategies. He and Ron Wessels, who succeeded him as deputy minister of law and order, gave evidence about the activities of the State Security Council (SSC) during the 1980s.

Their testimony went further than any other former government member yet in describing the climate in the government during the last half of the 1980s, when most of the atrocities for which former security force members have applied for amnesty were committed.

Both denied they were aware of instructions given by the SSC or cabinet for unlawful actions against government opponents. But they admitted that the state had failed to exercise proper control over the security forces, and that members of government were discouraged from asking questions about suspected irregularities.

"During the mid-1980s it was not the in thing to ask questions," Meyer said. "If you hear on a daily basis that people are being killed, you fall into a frame of mind where you stop asking questions."

Wessels said the NP had created the framework in which the police acted. "The framework was that the highest law of the land was the security of the land. In those circumstances, no one can say they did not know. It was foreseen that under those circumstances people would be detained, people would be tortured."

Wessels said NP politicians had to accept responsibility for whipping up emotions. He could not condemn the soldiers and policemen who committed those deeds in the name of the government.

"I do not believe the political defence of 'I did not know' is available to me because in many respects I believe I did not want to know."

Is the cost of our democracy too high?

HRC chairman Barney Pitjana is calling for a consultative forum of commissions in response to the DP charge that the number of these bodies is 'wasteful extravagance'

BY HOPEWELL RADEBE AND DAISY JONES

CHAIRMEN

CONTACT

PURPOSE

ACHIEVEMENTS

COST

Star 16/10/07

(252)

(2000)

TEXT DAISY JONES GRAPHIC DAVIDA TANCHEL

Human Rights Commission (HRC) chairman Barney Pitjana is calling for a "consultative forum" of similar organisations by the end of this month to work out new ground rules to avoid duplication in their work

The effect of the proposals would be to contain the soaring expense of government-funded commissions, which have cost R287-million since March 1995. Pitjana's proposal, contained in an internal document drawn up in August, is being discussed within the commissions' executive structures

Although Pitjana has dismissed criticism of the cost of various state commissions, he acknowledges that there may be a "lack of focus and inefficient utilisation of scarce resources"

Pitjana's document is published on the heels of a scathing survey of the commissions by the Democratic Party which concludes that they are the fruit of "the politics of wasteful extravagance, needless duplication and excessive power"

Pitjana also suggests that the proliferation of government and non-government human rights bodies could take up the limited pool of funds available for human rights promotion. He now wants the HRC to be responsible for developing a strategic plan for human rights work. Earlier this week, Pitjana said the commissions would start sharing offices and other facilities in the provinces

In an attempt to gauge whether the commissions are in fact doing their jobs, The Star has asked them to state their goals, achievements and costs. We would like readers to judge for themselves whether the commissions are worth the cost.



SENEN BAQWA
SARAFIYA 2

THE PUBLIC PROTECTOR
Contact: Elzabe de Wael
Tel: (012) 322-2916
Private Bag 677
Pretoria, 0001

Formerly called the Ombudsman, the protector is there to investigate complaints from people who feel they have been treated unfairly by a government agency or an official. Political parties may also ask the protector to investigate their allegations of misconduct within the state bureaucracy

A good example of this was the protector's investigation last year, at the request of the Democratic Party, into the *Sarafia 2* controversy. Only decisions of the courts are beyond the protector's jurisdiction. The incumbent serves for a non-renewable seven-year term

The protector's office has been handed about 2 000 complaints this year and has settled 590 of them. Many have been from former public servants complaining about late retirement and pension payouts. Other complaints have been

The budget this year is R5,827-m and Baqwa earns R367 650. There are 23 permanent staff members



BARNEY PITJANA
HUMAN RIGHTS COMMISSION

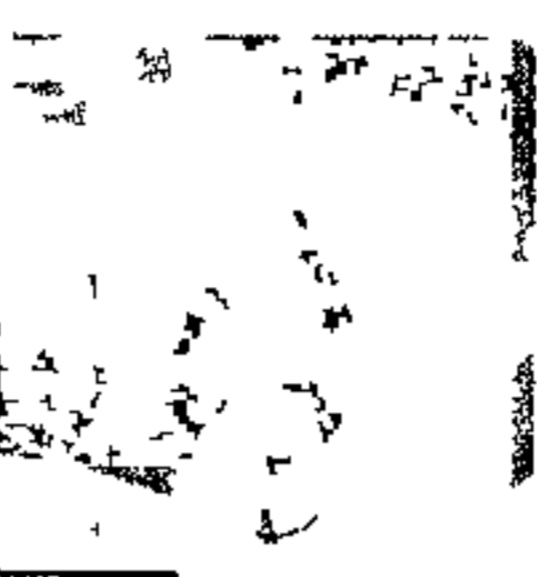
HUMAN RIGHTS COMMISSION
Contact: John Mqapelo
Tel: (011) 484-8300
Private Bag 27/00
Houghton, 2041

It is intended to build and promote a culture of human rights and to monitor the extension of rights to all citizens in line with the constitution's Bill of Rights. It has the power to demand annual reports from government departments on their progress in implementing socio-economic rights. It

may also investigate specific instances in which public or private institutions are alleged to have trampled on the rights of a citizen. So a complaint about racism in a public school, for example, should go to this office which will investigate it and make a recommendation

It received 1 439 complaints between January and September this year. 588 cases were either rejected or referred, 95 cases are being investigated and 203 telephone complaints were settled by offering advice. 371 complaints are

being assessed and 182 complaints are in the in-tray. Three of the 11 original commissioners have resigned, citing tensions arising from bureaucratic inefficiency and problems between staff and bosses. It is a permanent body



FANIE ESACK
GENDER EQUALITY COMMISSION

THE COMMISSION FOR GENDER EQUALITY
Contact: Fanie Esack
Tel: (012) 322-4482
Private Bag 91
Pretoria, 0001

To ensure equality among men and women by promoting respect for the ideals of gender equality and by ensuring people are not discriminated because of their gender. It also advises and educates on issues relating to gender equality. Its powers are quite wide and at the time the commission

was being set up in Parliament, some observers wondered if it was appropriate that a gender watchdog should have such wide legal powers of search and entry

It has only been up and running since June. It has produced a report on gender equality, made submissions to Parliament, addressed meetings and consulted widely with 80 government and civil society entities. Its 300-page report and its

report-backs to about 250 meetings around the country are claimed as successes. It needs more money to do its job properly. It wants more than four times the amount allocated. It has a five-year life which can be renewed once



MAKHANYA BHENGU
YOUTH COMMISSION

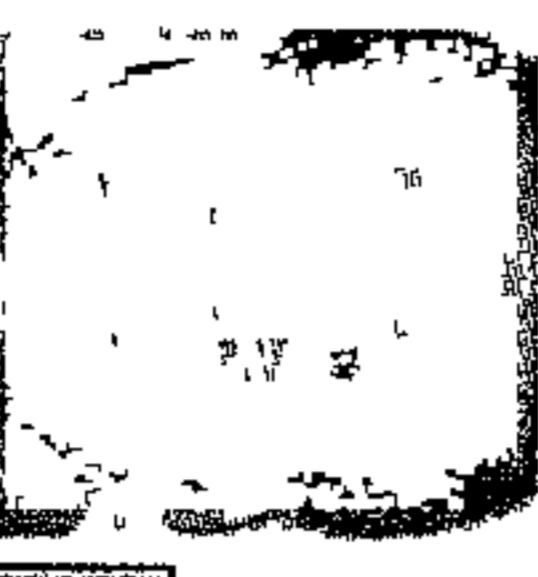
YOUTH COMMISSION
Contact: Paul Johnson
Tel: (012) 328-4708
Private Bag X911
Pretoria, 0001

It was created to ensure the rights of youths are upheld and that their needs as youth are met. Its main task is to devise a national youth policy which is to be presented to government. It has no constitutional status and has been set up in the office of Deputy President Thabo Mbeki with the aim of making it

Government's chief advisory body on youth affairs. It may also monitor public and private bodies and is tasked to conduct information and education programmes nationwide. The five commissioners were appointed for five-year terms

which may be renewed. It does not have legal or infrastructural resources to receive and deal with complaints although it may "facilitate assistance" and possibly provide funding

Bhengu is paid an annual package worth R320 000. The budget is R6,9-m. It employs 15 permanent staff members.



JOE SERENANE
COMMISSION FOR RESTITUTION OF LAND RIGHTS

COMMISSION FOR RESTITUTION OF LAND RIGHTS
Contact: Tjys Human
Tel: (012) 341-7900
PO Box 56720 Arcadia
Pretoria, 0001

Individuals, communities and descendants who have unfairly lost their land since 1913 may lodge claims for the return of the land or for reparation in the form of alternative land, money or other relief. Its job is to investigate the claim and

to try and settle the dispute without recourse to the courts. It may also prepare claims on behalf of aggrieved parties and these claims may then be forwarded to the Land Claims Court for it to make a ruling

It has successfully finalised two claims: one by the Elandsdool community which received State-purchased farms at Citrusdal in the Western Cape, the other claim at District Six, Western Cape, and Cato Manor, Durban, is still in the

balance. By July-end, 16 670 individual claims had been lodged. 3 086 in rural areas and 13 584 in cities. Some claims have been grouped, which may help overcome the case backlog. Its five-year life may be extended by 10 years.



SELLO RABOTHATA
TRUTH AND RECONCILIATION COMMISSION

TRUTH AND RECONCILIATION COMMISSION
Contact: Sello Rabothata
Tel: (011) 333-6330
10th Floor, Sanlam Centre
Cor Jappe and Von Mellegh Str
Johannesburg, 2001

The TRC has three main tasks: to compile a picture of human rights abuses during the apartheid era, to restore to victims their human dignity by having them tell their stories and to recommend how they can be helped, and to consider granting civil and criminal amnesty to

people who committed atrocities for what they now claim were political reasons, providing they give full details of the deeds for which they are seeking amnesty. It has until April 30 next year to finish its investigations and until July 30 to finish hearing amnesty applications.

It has received 12 000 statements from victims. About 2 000 of these have given statements in public. It has 7 000-odd amnesty applications, of which about 1 700 have been dealt with so far. Fifty amnesties were granted after

hearings and 23 in chambers. 17 people were denied amnesty and 1 648 have been refused on paper. Another 600-odd applications need to be considered in chambers and 1 635 need to be dealt with in hearings

Night court officials fear crime attacks

BD 16/10/97 (252)

Wyndham Hartley

CAPE TOWN — A host of state judicial officers have supported the provision in the "bail bill" that bail applications be heard only during "normal court hours" because courts were unsafe for prosecutors, court personnel and witnesses who would be robbed and have their cars stolen after hours.

This emerged yesterday when Parliament's justice committee was discussing the submissions on the Criminal Procedure Second Amendment Bill with a view to accommodating them in amendments to the legislation.

The bill intends to make it almost impossible for criminals to achieve bail under certain circumstances and has come under fire from human rights or-

ganisations for being unconstitutional.

The judge-president of the Free State High Court, magistrates from Pretoria, Durban, Germiston, Kempton Park and Cape Town, as well as attorneys-general from Cape Town, Witwatersrand, Natal and Bloemfontein, and regional court presidents from Cape Town, Kimberley, and Johannesburg, supported holding bail hearings during normal hours only.

The report on their submissions said that security was nonexistent after hours and prosecutors in Johannesburg had already been robbed and had their cars stolen.

It was also suggested that the general public did not have access to court buildings after hours and this would mean the hearings were not "transpar-

ent". Told that it could take weeks to establish whether an accused person had a criminal record, Democratic Party MP Douglas Gibson said this would mean the state would not have the evidence to oppose bail.

The committee was also told many judicial officers and human rights organisations had objected to the clause stating that an accused may be refused bail if it would disturb the public order. The court officials said it militated against the presumption of innocence in the constitution and could also result in bail being refused for emotional as opposed to judicial reasons.

The committee was told however that a similar provision existed in French law and has been accepted by the European Court of Human Rights.

Nats did not want to know — Wessels

Stephen Laufer

FORMER deputy law and order ministers Roelf Meyer and Leon Wessels yesterday came closer than any of their erstwhile colleagues to admitting that the National Party (NP) government had chosen not to know about criminal activities by the security forces

Testifying to the truth commission's state security council hearings, Wessels said he did not believe the political defence "I did not know" was available to him because "in many respects I believe I did not want to know"

The printed text of Wessels' statement initially read "we did not want to know," but he told the commission he preferred to speak just himself.

Meyer said a climate had prevailed in government which denied SA's black majority had a just cause, resulting in a determination that "the enemy" had to be wiped out. Even ministers had been prevented from asking questions, "and that is how we just let it happen".

Wessels said any NP politician or supporter at the time who believed the party held power because of persuasion and not through coercion "was out of touch with reality, to put it mildly"

The relationship between the military, police and clandestine services and the NP politicians had not been open and transparent. "Therefore we did not manage the security forces and intelligence services properly"

The politicians had failed the security forces because they had not offered a viable constitutional vision to end the conflict. If the security establishment had been properly managed, the com-

BD 16/10/97 (252)
mission would not have had to listen to evidence about the killing of anti-apartheid activists being the result of misunderstandings.

Several senior generals and politicians — including former ministers Pik Botha and Adriaan Vlok — have told the commission that the cabinet and top-ranking officers never ordered the murder of opponents of apartheid. If lower ranks had understood instructions to "eliminate," "rub out," or "make a plan about" activists as orders to kill, they had misinterpreted their superiors, they said.

But Wessels said he could not distance himself from state operatives who murdered and tortured government opponents. "I cannot disown them because we were on the same side and fought for the same cause"

It was a pity the NP had not taken collective and moral responsibility for its failure to inquire into allegations of human rights abuses. Former presidents PW Botha and FW De Klerk were "pussyfooting around the issues".

Responding to Meyer's description of a government ruled by fear and silence, commission chairman Archbishop Desmond Tutu asked whether the result had been an atmosphere in which no holds had been barred for the security forces. "That is what to a great extent happened," Meyer said.

Tutu, after several hours of testimony by Vlok, congratulated Meyer and Wessels on their "remarkable candour". They had figuratively "stood naked" before the commission.

Picture: Page 3

INKATHA AND THE TRUTH COMMISSION

**Baqwa enters
the fray**

Public Protector agrees to probe
TRC's alleged bias against Inkatha

FM 17/10/97
The Inkatha Freedom Party's running battle with the Truth & Reconciliation Commission took a dramatic turn with Public Protector Selby Baqwa's agreement to investigate IFP allegations of TRC bias and violations of constitutional rights

It will be a double coup for the party if Baqwa finds in its favour. Not only will the TRC then be asked to make amends, but more important, Inkatha will have scored a moral victory over both the TRC and (by association) the ANC. The IFP has long claimed that the truth body is being used by the ANC to vilify its opponents by con-



Selby Baqwa treating Inkatha's complaint with urgency

centrating on their transgressions while skimming over or ignoring ANC misdeeds

The big question is whether the finding will be accepted by Inkatha if the Public Protector absolves the TRC of bias

Investigator Gary Pienaar of the public protector's office says that Inkatha has made no pledge to accept the findings

But IFP spokesman Ed Tillett concedes that the party is morally obliged to abide by the ruling since, as a member of the government of national unity, it endorsed the decision to create the public protector's office. Tillett also says acceptance need not mean that Inkatha has agreed with the finding

Baqwa's decision to investigate follows his receipt of two affidavits, one from KwaZulu-Natal premier and IFP chairman Ben Ngubane and another filed by IFP member Phumlani Mshegu

Ngubane accuses the TRC of fuelling political conflict rather than promoting reconciliation through alleged anti-Inkatha bias and violations of the party's constitutional rights

Mshegu's complaints specifically target TRC KwaZulu-Natal chairman Richard Lyster, whom he accuses of abusing his powers, acting capriciously, and being politically biased

If Baqwa finds substance in the allegations he is likely to advise the TRC to take steps to redress the balance. If it refuses he can ask parliament to take action

Pienaar says the investigation is being treated with some urgency because of the finite life span of the TRC, the sensitive nature of the issues involved, and the high profile of both Inkatha and the TRC

Issues which have led to Inkatha's complaint include

- The TRC's Durban hearings at which rank and file Caprivi trainees, soldiers, and hit squad members implicated senior party officials, including leader Mangosuthu Buthelezi, in their activities,
- The TRC's seizure of IFP defector Walter Felgate's papers. This created the impression, according to Ngubane, that Inkatha leaders are linked to gross human rights violations. The basis of this deduction is that no papers or archives have been subpoenaed from other political parties, and
- The TRC's exhaustive probe into the seven-day Edendale war, while ignoring the "serial killing" of thousands of Inkatha leaders and supporters

Tillett stresses that Inkatha's objection is not that it has been investigated by the TRC, but that it has been singled out for investigation to the exclusion of other political groupings, particularly the ANC

Herb Payne

Apartheid cost the country – Sacob

Star 17/10/97 (252)

The South African Chamber of Business (Sacob) said in a submission to the Truth and Reconciliation Commission today that it should have done more to oppose apartheid which had been costly to the economy

“With the benefit of hindsight it may be said that the enormity of the apartheid system required stronger responses from business on certain key issues,” Sacob, which claims to have more than 35 000 members, said in its submission released ahead of its hearing in November

The commission has approached major employer associations, trade unions and corporations to try to ascertain if business was an innocent bystander or active participant in apartheid

Sacob said it had a good, consistent record of opposition to the oppressive racist system, calling for the scrapping of discriminatory laws and urging improvements in black housing,

education and training, employment conditions and wages

But it said discriminatory laws, such as the Bantu Education Act, the Separate Amenities Act, the Group Areas Act and the Industrial Conciliation Act, were costly

It said they “not only imposed added capital costs on business, but resulted in unqualified and incompetent whites being employed at inflated wage rates while competent blacks, coloured and Asians were excluded”

Sacob said South Africa’s economic performance could have been better

“Increasing state involvement in the economy, and the indirect benefits obtained from rapid growth in the world’s industrialised economies at the time, disguised the price which apartheid exacted,” it said. – Reuters

► More reports

Statements to the TRC by men who once ruled: the older plead ignorance, the younger make admissions

INSIDE

Robert Brand on the special TRC hearings about the State Security Council - as told by some of the ministers supposed to be in control

DEBBIE YAZBEK



The apology of Pik Botha

Confessing a sin and experiencing remorse for wrongs one committed has a salutary healing effect on an individual and on a people. This is essentially a mental and spiritual venture.

Entering into it cannot be made conditional on others doing the same. It does not work on the basis of a quid pro quo. It loses its efficacy the moment we say yes, we confess, we know that we sinned; but the ANC and the PAC and others also committed hideous transgressions.

In the realm of confessions there is no room for negotiations or striking deals. It is a lonely cleansing process of the heart and the mind.

I realise that I could have done more to turn the tide of apartheid earlier. I acknowledge that I could have done more in the State Security Council, in the cabinet and in Parliament to ensure that political opponents were not killed or tortured by government institutions.

I could have and should have done more to find out whether the accusations that government institutions were killing and torturing political opponents were true.

Not one of us in the former government can say today that there were no suspicions on our part that members of the South African Police were engaged in irregular activities. The decisive question is not

whether we, as a cabinet, approved the killing of a specific political opponent.

The question is whether we should have done more to ensure that it did not happen. I deeply regret this omission. May God forgive me.

I was a member of our legal team at the World Court where, for more than five years, we fought the world unremittently. There I experienced that you gain nothing by winning the legal battle if you lose the moral battle. We could not win the political struggle, not against the world and not against the ANC because the policy of the National Party had no moral basis.

The whites of our country can now, for the first time, make their contribution without feelings of guilt. President Mandela made it clear that he welcomes and appreciates the contribution of whites. Of course, the levels of crime and violence are horrific. Of course things are said by individual members of the ANC that are distressing.

But then, it is the duty of all, black and white and brown and Asian, to enter into debate with each other and analyse our clashing standpoints within the framework of free speech and association. And that we can do today without the contamination of racial prejudices.

We can debate on policy and premises that are no longer race or colour bound. And we, the whites, should not lose perspective. There was a time when an NP minister said in public that Steve Biko's grave some death had left him cold.

Star 17/10/97 (252)

There was a time when it was seriously considered in the inner circles to clamp down on the Oppenheimer "empire"; when the Senate was packed to make a law stripping coloureds of their right to vote; when people of colour were reclassified in the most disgusting way to strip them of their fundamental rights, when a white man and a coloured or black woman who had sexual intercourse were sent to jail like criminals while a white man could cheat on his wife every evening with another white woman without the law laying a finger on them.

Or when a black man who went to the corner cafe without his pass to buy cigarettes for his "baas" was arrested and locked up like a criminal, when a black professor of a university near the Limpopo who was travelling to Cape Town could not stay overnight in any hotel along the way, when a coloured person who had a doctorate, who spoke and wrote poetry in Afrikaans and who was a member of the Dutch Reformed Church could not dine in any restaurant with his fellow Afrikaners.

I do not want to create the impression that whites have to reproach themselves endlessly and condemn themselves to sit in sackcloth and ashes until doomsday.

We, the whites, in particular the Afrikaner, now have a more important role to play than ever before. Genuine remorse about the repressive past which we sustained and supported will liberate us to play that role.

Clearer picture of political responsibility

While many of the answers may not be what the TRC expected or hoped for, some truth is at last emerging

By Robert Brand

Although the answers given at the Truth and Reconciliation Commission's hearings on the State Security Council (SSC) this week may not have been what many people expected, the commission is now closer to the truth than ever before about the murky netherworld of the apartheid security establishment.

The hearing's focus was on the politicians who ran the SSC. It was successful on two levels: it elicited apologies from former National Party cabinet ministers, which went further than anything offered yet, and a realistic picture emerged of the conditions which made it possible for members of the security forces to act with impunity.

Those who expected dramatic confessions about unlawful actions by Pik Botha, Adriaan Vlok, Rolf Meyer and Leon Wessels would have been disappointed. But the four men painted a picture of a government beset by fear, losing control of its own security forces and systematically eroding the rule of law in its obsessive efforts to silence legitimate opposition.

The apologies from Botha and Wessels, especially, recognised the futility of adopting a narrow, legalistic approach to accepting responsibility for deeds committed by subordinates.

Former NP leader FW de Klerk in his submission to the TRC earlier this year, and

to an extent Meyer and Vlok at this week's hearing, insisted on defining degrees of responsibility; on drawing distinctions between "moral" or "political" and other forms of responsibility, on attempting to distance themselves from criminal actions committed by government officials without appearing disloyal. It got De Klerk nowhere.

The value of an apology can only really be judged by those to whom it is directed. But the apologies offered by Botha, Wessels and Meyer, when he was finally moved to concede that no-one in government could shrink the blame for the actions of the security forces, were lauded by TRC chairman Archbishop Desmond Tutu as "breath-taking", "extraordinary", and "courageous".

At least equally extraordinary was the account these former NP leaders gave of their own style of government.

Former foreign minister Botha's testimony leads one to believe the security forces pursued their own foreign-policy agenda. He was rarely consulted about cross-border operations which held immense consequences for South Africa, Botha said.

When strikes against Gaborone, Lusaka and Harare in 1986 wrecked the Eminent Persons' Group initiative, he heard about them the morning after they had happened. Botha insists that the EPG initiative had come very close to getting the government and the ANC around the negotiating table, and that it took another four years before this fi-

TRC DIARY

Next week

On Monday, the amnesty committee starts hearing the application of Jeffrey Benzen, the man who shocked South Africa earlier this year when he demonstrated at a "wet bag" torture technique at a TRC sitting in Cape Town. He is applying for amnesty for torture. The hearing is in Cape Town and is scheduled to continue until Friday.

Coming up

On October 28, the amnesty committee starts a hearing for the

perpetrators of the 1993 Heidelberg

massacre in which three people were killed by members of the PAC's armed wing, Apla. In the same week, another panel of the amnesty committee will be sitting in Kimberley for the amnesty application of Walter Smiles, an ANC member who has admitted throwing a hand grenade which killed one person during a protest march in Johannesburg, there will be a special hearing on the role of the legal profession and judiciary during apartheid. The hearing is from October 27 to October 29.

nally happened is a tragedy.

Botha said he did not know whether the strikes were a deliberate ploy to wreck the initiative, but "I have my suspicions".

Similarly, he was not kept in the picture about South Africa's continuing material support for Renamo after the signing of the

representative Dulcie September - a "great shock" to him - Botha found out that his phones were being tapped, leading him to establish his own technical division to sweep the phones of his department.

Vlok said he did not know about any of the murders and other atrocities being committed by his policemen, not only at Vlakplaas, but at security police branches throughout the country.

He had every allegation of irregularity investigated by the commissioner, and never received any information of impriority by the police.

He was forced to concede that his commissioner may have kept him in the dark about the running of his department. In at least one case, the death of Stanza Bopape, there is evidence that commissioner Johan van der Merwe participated in the cover-up.

Meyer and Wessels, who both served as deputy ministers of law and order during the late 1980s, said they were not aware of instructions to police to commit crimes.

But Wessels said the problem was that the government did not manage its security forces properly, effectively losing control. And Meyer added that the government did not take effective steps to ensure that individuals in the police and military could not act unlawfully and get away with it.

It is now clear from evidence heard by the commission in the past 18 months that many members of the security forces believed they were acting out government poli-

cy when they tortured, harassed or killed government opponents, and that the government, at cabinet or SSC level, did not explicitly order these actions. The officials are blaming the politicians, and the politicians admit, at most, to a sin of omission.

The KwaMakhutha trial showed how difficult it would be to hold political leaders criminally responsible for unlawful actions by the security forces, the evidence before the commission suggests likewise. There simply is no hard evidence linking the cabinet or the SSC to unlawful actions.

But are the politicians guilty only of omitting to rein in their security forces, as Meyer, Botha and Vlok would want? Or are they guilty by commission, for creating a climate in which policemen reasonably believed they were above the law, as TRC chief investigator Glen Goosen tried to show?

Wessels, perhaps, came closest to the answer when he said the politicians who progressively eroded the rule of law by voting powers to police to detain people without trial, by instituting successive states of emergency, by giving more power to the executive arms of government, must have known the results of their actions.

"The framework was that the highest law of the land is the security of the land... It was foreseen that under those circumstances people would be detained, people would be tortured," Wessels said. "The political defence of 'I did not know' is not available to me."

CHRIS ADLAM



Admissions by Roelf Meyer

I never had knowledge of any organised attempt within the context of government to identify specific targets or to do planning for the destruction of such targets on the basis of a conspiracy or plot.

If it had taken place, it might have been either within line function context or it had been planned and executed by individuals

gressions took place over such a lengthy period is an indication that more vigilant action was called for

With hindsight and looking at the embarrassing facts now emerging, one can argue that more stringent steps should have been taken to curb the possibilities of transgressions taking place

If blame is to be attributed to politicians, it is one of omitting to take more vigilant action when danger signals presented themselves

For such omissions I accept political responsibility

(262)

Star 17/10/97

The apology of Adriaan Vlok

A s minister of law and order I undertook under oath to fulfil my official duties to the best of my ability

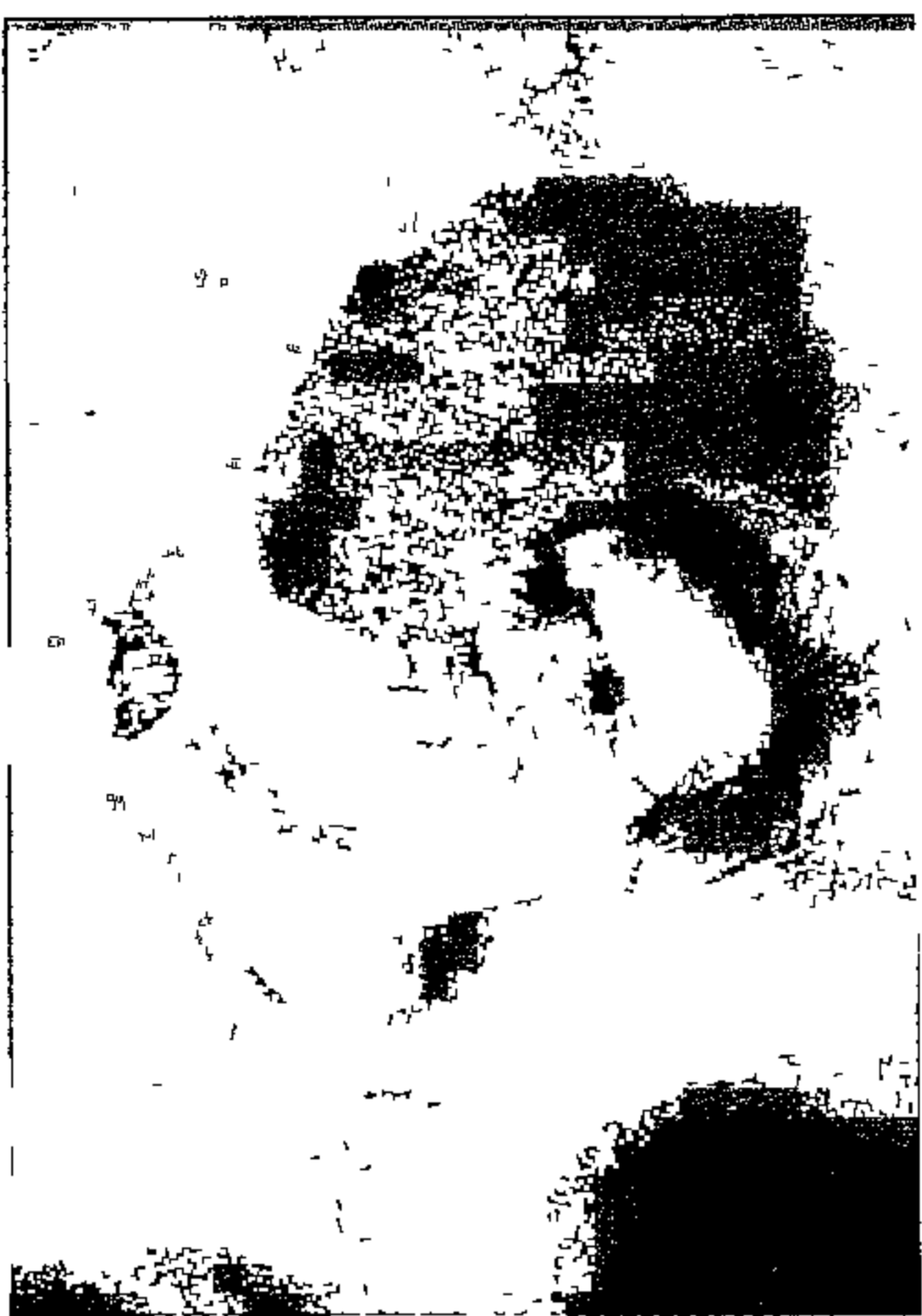
My official duties included the protection and security of the citizens of the Republic of South Africa. This included protecting them against people who committed acts of terror against them, as well as acts of intimidation, unrest, rioting and violence.

I never acted against anyone out of hate

This country and its people owe a debt of gratitude to all those thousands of policemen and women who made the difference between anarchy and the maintenance of law and order

The SA Police played a role in preventing this country from exploding in a bloody revolution

The history inevitably caused pain and suffering for all - for women and children, for parents and families



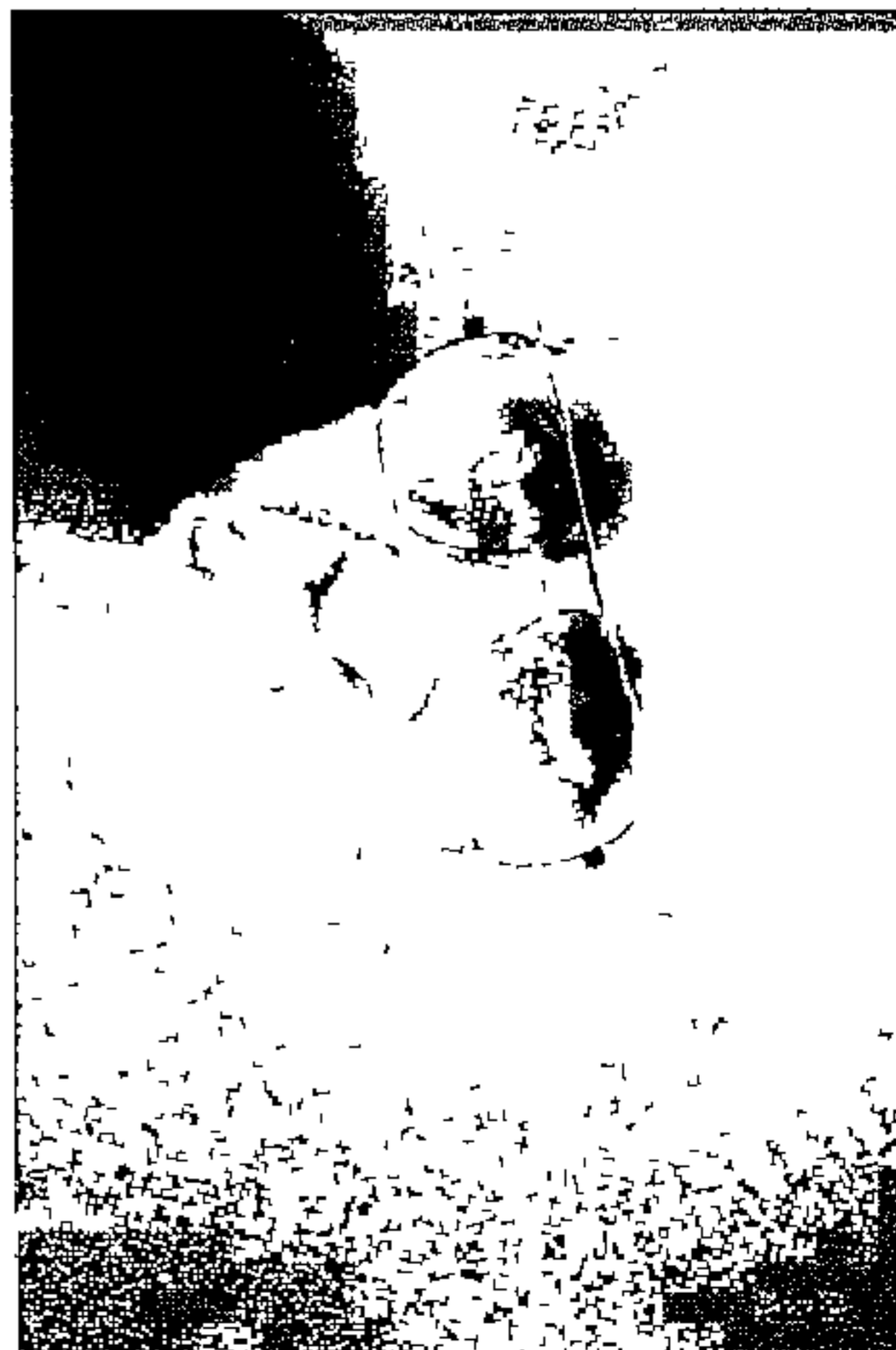
CHRIS ADLAM

If I think back about all the thousands of innocent citizens of our country who were injured and murdered in the most atrocious ways imaginable (terror bombs and necklacings) during my term of duty as the responsible minister, then I get the inevitable feeling that I had failed them, that I fell short in my attempts to afford sufficient protection to them - that I did not do enough

Words cannot express my regret towards them

Nevertheless, I want to say that if there is anyone who believes that I could have done more in his personal case, then I accept the criticism unconditionally and say that I am sorry

That brings me to those who committed all these thousands of atrocities against innocent people



DEBBIE YAZBEK

Keeping you informed

Every Friday The Star will produce a news feature to keep you up to date with the Truth and Reconciliation Commission

The feature, produced by our team of specialist TRC reporters, will provide all the background, the news and the insights you need to keep you in the picture as the dramatic story of our past unfolds

Our war will stay with some people until the day they die. I request the commission to show empathy with all those people.

A different tale by Leon Wessels

I do not believe that indivi-

dually or collectively I ever took a decision that cannot stand the test of daylight today

I further do not believe the political defence of "I did not know" is available to me, because in many respects I believe I did not want to know

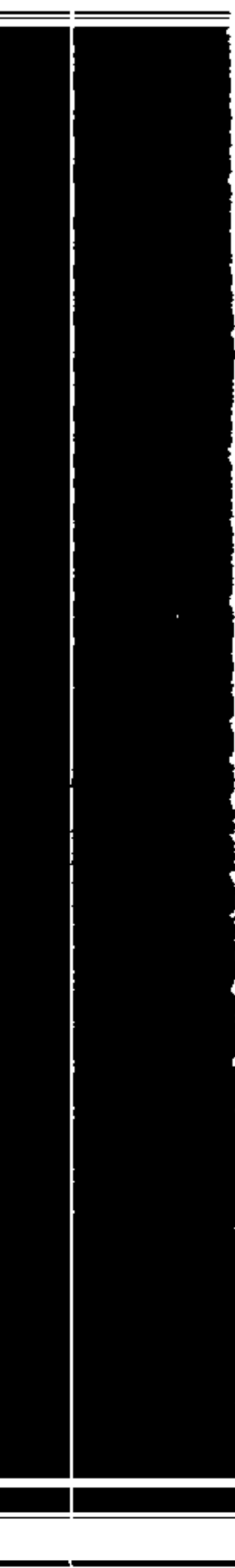
In my own way I had my suspicions of things that had

caused discomfort in official circles, but because I did not have the facts to substantiate my suspicions or I had lacked courage to shout from the rooftops, I have to confess that I only whispered in the corridors

I am now more than ever before convinced that apartheid was a terrible mistake that blighted our land

South Africans did not listen to the laughing and the crying of each other

I am sorry that I had been so hard of hearing for such a long time



Why the generals guard their secrets

THE time has arrived to stop pressing SA's former ministers and generals to provide answers about the past.

We have heard all we are going to hear in the current phase of SA's encounter with its past.

This conclusion should be drawn neither in sorrow nor in anger, but in the calm recognition that the truth and reconciliation commission's military and state security council hearings did all they could to uncover the realities of command and control under successive National Party governments.

First were the generals, stonewalling, dissembling, engaging in sophistry, quoting school dictionary definitions of the word "eliminate", claiming to have been misunderstood by murdering and torturing subordinates.

Then came the politicians, ranging from that genial granddaddy Pk Botha, via the convoluted and blinkered Adriaan Vlok, to — for long-term commission observers — the refreshingly direct former deputy law and order ministers Leon Wessels and Roelf Meyer.

All contributed to our understanding of how the past government saw itself, related to the country, and functioned internally. As different as their contributions were, they together removed any doubt that a smoking gun might still be discovered at the cabinet table.

The politicians and generals, each in their own way, made it clear that SA's security system was founded on the principle of plausible deniability.

Former police and military intelligence agent Craig Williamson was the first to spell out the strategy on which all claims of ignorance rested.

He detailed the deliberate creation of a system which allowed the generals and politicians to deny responsibility, to avoid "having blood on their hands".

Confirming Williamson's assessment, Wessels told the commission he had not known, because "I did not want to know". We should believe the generals too when they say they did not know. They too did not want to know. They did not need to, thanks to loyal followers too drunk on indoctrination to realise that with each attack they were digging themselves further into a hole.

SA's security establishment knew how to cocoon itself from

At the conclusion of an important week in the truth commissioner's life, specialist writer Stephen Lauffer looks at what was achieved

the unpleasant realities of what it was doing. Only the revelations of the coming decades — and they will emerge — will show whether it succeeded in insulating itself from any retribution.

The former generals and politicians taught us something else during the past two weeks. With their statements came the recognition that the truth commission has become as much a battleground for deciding future power relationships as a place where the past is laid to rest.

The strategy is the Broederbond's, suggests a lawyer for some of the lower-ranking officers left carrying the can for apartheid's more murderous moments. Their approach, he believes, is to limit the damage which can be done to the upper echelons.

Images of God formed over decades by the Afrikaner establishment churches and carried in the bosoms of men like Vlok are still at work, it seems. How else to explain the denial that prevents men from coming clean who have nothing more to gain from circumnavigating the truth than fearing the wrath of their maker?

For generals Constand Viljoen, Janne Geldenhuys, Kat Liebenberg and Georg Meiring, it appears that more terrestrial matters are at stake. Control of the defence force in years to come, for example.

That control rests on continuing public trust in the military and the strong command and control which is possible only if morale is high. Neither will be sustainable, the generals know, if they are sucked into myriad amnesty applications as the police have been.

Bitterness about the security forces' past and concern at the old establishments' continuing hold over them may persist. But the new SA's security needs may — for the foreseeable future at least — justify keeping those in charge who ran the country's domestic and regional wars.

In contrast to the SA National Defence Force's (SANDF's) motivated troops and comparatively well-ordered systems, the SAPS is a picture of demoralisation. The country may still need the army

Unlike the military, which successfully worked to regain public confidence on the East Rand and in Alexandra township, the police are still regarded with suspicion by the vast majority of the country's population.

A key reason, the SANDF chiefs might argue, is the stream of revelations coming out of the truth commission about past police atrocities.

The threat of prosecution has forced increasing numbers of senior policemen — including at least one former commissioner — into the amnesty process. With them have come details of elections, shootings, bombings, torture, stabbing and brutality.

The result: The SAPS remains

(252)

demoralised, despised and incapable of doing its job.

Heaven forbid that the same fate should befall the SANDF, making Meiring's hold as tenuous as George Fiyaz's or Johan van der Merwe's before him.

One way to ensure that Meiring's grip remains firm is to give the commission only what cannot be denied.

So Mar-Cear Joop Joubert, one-time head of special forces who was stupid enough to get his covert action troops involved in police operations, is the paven to be sacrificed.

There is no longer any denying special forces involvement in the deaths of Florence and Fabian Ribeiro, Piet Ntuli and the N-

BD 17/10/97

overdend 10 young Mamelodi men ostensibly recruited by Umkhonto weSizwe, but in fact driven to their deaths by a combined covert task force. The policemen involved have told the amnesty committee that the soldiers were there.

But just throwing Joubert to the commission would be an incomplete strategy. Why not capsize on the sacrifice by having the defence force chief at the time, Geldenhuys, claim that the moment he heard about the special forces' illegal activities he introduced new procedures ensuring that they never again killed an opponent of apartheid on SA soil?

No sooner said than done. The Burger, Cape Town's Afrikaner

newspaper of record, bought the argument. Geldenhuys had prevented the worst, a banner headline proclaimed.

Recognising this background to the generals' Trappist approach to the truth will be a bitter pill for those searching for answers about the disappearances of loved ones.

It will be hard to swallow for all those former activists who want to know details of the Civil Co-operation Bureau's (CCB's) activities here and abroad.

Perhaps we should all take comfort from how the truth has kept bubbling to the surface in other countries with a violent and painfully divided past.

In Spain, it took 21 years of democracy before the octogenarian combatants who as young men and women had made up the International Brigades could be invited to celebrate their courage in fighting against fascism.

In France, the Catholic church has needed 52 years to acknowledge its role in the betrayal of Jews during the Nazi occupation.

In Germany and Austria, a new exhibition on the Wehrmacht showing that ordinary conscripts were indeed involved in atrocities, deportations to concentration camps, and mass executions, has caused a political furor — more than 50 years after the end of the Second World War. The exhibition is controversial because it has had to rest the myth of a separation of responsibilities — on the one hand the SS perpetrating the Holocaust, on the other honest riflemen doing their duty.

For the moment, there is life in SA's own separation myth — on the one hand, the police special branch with blood on its hands, on the other, the boys doing their patriotic duty "on the border".

Those who could tell the truth might do well to heed Archbishop Desmond Tutu's words. "We inhabit a moral universe," he said. "A justice will not have the last word."

The truth will out, even for those who believe their position is impregnable.



Former deputy law and order minister Leon Wessels and SA National Defence Force Chief Georg Meiring



Organised business did not benefit from apartheid, says Sacob

Stephen Lauffer

THE SA Chamber of Business (Sacob) has told the truth commission a strong argument can be made that organised business should have done more to get rid of apartheid.

Sacob said it and its predecessors — the Association of Chambers of Commerce and Industry of SA and the SA Federated Chamber of Industries — engaged the government over many years in the interests of economic freedom and human rights for all.

The organisations had pushed to the limit the gradualist approach to removing apartheid rather than supporting an "all or nothing" stance. But "with the benefit of hindsight it may be said that the enormity of the apartheid system required stronger responses from business on certain key issues".

Sacob's submission to the commission is in preparation for the truth body's hearings on the relationship between apartheid and the economy next month. Sacob — which said it was perceived as representing white, liberal,

English-speaking interests — appears neither to apologise nor accept moral responsibility for acts or omissions which resulted in support for apartheid — unlike the Afrikaner Handelsinstituut.

Any perception that business had benefited under apartheid was wrong, Sacob said, because this failed to take into account the real costs of the system to commerce and industry.

The positive response by the business community to the relative political stability of the 1960s — following

the jailing of black political leaders and the banning of the African National Congress, the Pan Africanist Congress and other organisations — should not be viewed as support for apartheid. Instead, the positive stance should be seen as evidence that business was generally risk-averse.

Sacob highlighted its efforts to remove job reservation and allow union activity. The basis of the strategy "was one of engagement, of recognising that the people in power had to be convinced to change their policies". Contact with

14110197
and access to senior public servants and the political leadership was "the only way to achieve this outcome".

The deepening conflict of the 1980s had caught business between recognition of the inevitability and desirability of significant political reform and a great deal of instability which was bad for the economy. It had responded by trying to facilitate contact between opposing political interests while fighting against sanctions and disinvestment.

See Page 13

Why the generals guard their secrets

THE time has arrived to stop pressing SA's former ministers and generals to provide answers about the past.

We have heard all we are going to hear in the current phase of SA's encounter with its past.

This conclusion should be drawn neither in sorrow nor in anger, but in the calm recognition that the truth and reconciliation commissioner's military and state security council hearings did all they could to uncover the realities of command and control under successive National Party governments.

First were the generals; stonewalling, dissembling, engaging in sophistry, quoting school dictionary definitions of the word "eliminate", claiming to have been misunderstood by murdering and torturing subordinates.

Then came the politicians, ranging from that genial grandfatherly Pik Botha, via the convoluted and blinkered Adriaan Vlok, to — for long-term commission observers — the refreshingly direct former deputy law and order ministers Leon Wessels and Roelf Meyer.

All contributed to our understanding of how the past government saw itself, related to the country, and functioned internally. As different as their contributions were, they together removed any doubt that a smoking gun might still be discovered at the cabinet table.

The politicians and generals, each in their own way, made it clear that SA's security system was founded on the principle of plausible deniability.

Former police and military intelligence agent Craig Williamson was the first to spell out the strategy on which all claims of ignorance rested.

He detailed the deliberate creation of a system which allowed the generals and politicians to deny responsibility, to avoid "having blood on their hands."

Confirming Williamson's assessment, Wessels told the commission he had not known, because "I did not want to know."

We should believe the generals too when they say they did not know. They too did not want to know. They did not need to, thanks to loyal followers too drunk on indoctrination to realise that with each attack they were digging themselves further into a hole.

SA's security establishment knew how to cocoon itself from

At the conclusion of an important week in the truth commissioner's life, specialist writer **Stephen Lauffer** looks at what was achieved

the unpleasant realities of what it was doing. Only the revelations of the coming decades — and they will emerge — will show whether it succeeded in insulating itself from any retribution.

The former generals and politicians taught us something else during the past two weeks. With their statements came the recognition that the truth commission has become as much a battleground for deciding future power relationships as a place where the past is laid to rest.

The strategy is the Broederbond's, suggests a lawyer for some of the lower-ranking officers left carrying the can for apartheid's more murderous moments. Their approach, he believes, is to limit the damage which can be done to the upper echelons.

Images of God formed over decades by the Afrikaner establishment churches and carried in the bosoms of men like Vlok are still at work, it seems. How else to explain the denial that prevents men from coming clean who have nothing more to gain from circumnavigating the truth than fearing the wrath of their maker?

For generals Constand Viljoen, Jannie Geldenhuis, Kat Liebenberg and Georg Meiring, it appears that more terrestrial matters are at stake. Control of the defence force in years to come, for example.

That control rests on continuing public trust in the military and the strong command and control which is possible only if morale is high. Neither will be sustainable, the generals know, if they are sucked into myriad amnesty applications as the police have been.

Bitterness about the security forces' past and concern at the old establishment's continuing hold over them may persist. But the new SA's security needs may — for the foreseeable future at least — justify keeping those in charge who ran the country's domestic and regional wars.

In contrast to the SA National Defence Force's (SANDF's) motivated troops and comparatively well-ordered systems, the SAPS is a picture of demoralisation. The country may still need the army

Unlike the military, which successfully worked to regain public confidence on the East Rand and in Alexandra township, the police are still regarded with suspicion by the vast majority of the country's population.

A key reason, the SANDF chiefs might argue, is the stream of revelations coming out of the truth commission about past police atrocities.

The threat of prosecution has forced increasing numbers of senior policemen — including at least one former commissioner — into the amnesty process. With them have come details of electrocutions, shootings, bombings, torture, stabbing and brutality. The result: The SAPS remains

demoralised, despond and incapable of doing its job.

Heaven forbid that the same fate should befall the SANDF, making Meiring's hold as tenuous as George Fiyaz's or Johan van der Merwe's before him.

One way to ensure that Meiring's grip remains firm is to give the commission only what cannot be denied it.

So Maj-Gen Joop Joubert, one-time head of special forces who was stupid enough to get his covert action troops involved in police operations, is the pawn to be sacrificed.

There is no longer any denying special forces involvement in the deaths of Florence and Fabian Ribeiro, Piet Nhah and the Ni-

(252) BD 17/10/97

etverend 10, young Mamelodi men ostensibly recruited by Umkhonto weSizwe, but in fact driven to their deaths by a combined covert task force. The policemen involved have told the amnesty committee that the soldiers were there.

But just throwing Joubert to the commission would be an incomplete strategy. Why not capitulate on the sacrifice by having the defence force chief at the time, Geldenhuis, claim that the moment he heard about the special force's illegal activities he introduced new procedures ensuring that they never again killed an opponent of apartheid on SA soil?

No sooner said than done. The Burger, Cape Town's Afrikaans

newspaper of record, bought the argument Geldenhuis had prevented the worst, a banner headline proclaimed.

Recognising this background to the generals' "Trappist approach to the truth will be a bitter pill for those searching for answers about the disappearances of loved ones.

It will be hard to swallow for all those former activists who want to know details of the Civil Co-operation Bureau's (CCB's) activities here and abroad.

Perhaps we should all take comfort from how the truth has kept bubbling to the surface in other countries with a violent and painfully divided past.

In Spain, it took 21 years of democracy before the octogenarian combatants who as young men and women had made up the International Brigades could be invited to celebrate their courage in fighting against fascism.

In France, the Catholic church has needed 52 years to acknowledge its role in the betrayal of Jews during the Nazi occupation.

In Germany and Austria, a new exhibition on the Wehrmacht showing that ordinary conscripts were indeed involved in atrocities, deportations to concentration camps, and mass executions, has caused a political furor — more than 50 years after the end of the Second World War. The exhibition is controversial because it has laid to rest the myth of a separation of responsibilities — on the one hand the SS perpetrating the Holocaust, on the other honest riflemen doing their duty.

For the moment, there is life in SA's own separation myth — on the one hand, the police special branch with blood on its hands, on the other, the boys doing their patriotic duty "on the border".

Those who could tell the truth might do well to heed Archbishop Desmond Tutu's words "We inhabit a moral universe," he said "A lie, injustice will not have the last word.

"The truth will out, even for those who believe their position is impregnable."



Former deputy law and order minister Leon Wessels and SA National Defence Force Chief Georg Meiring



Winnie blames Stratcom

Wally Mbhele and Peta Thornycroft

Madikizela-Mandela has asked for transcripts of what she told investigators at her secret hearing to be made public, but this could cause the commission legal problems as she made serious and potentially actionable allegations against named people

The committee was formed to assist the movement's leaders manage the crisis surrounding the behaviour of Madikizela-Mandela. They sent several communications about her behaviour and the violence of the football club to the African National Congress in exile and visited the organisation's leadership in Lusaka

Winnie Madikizela-Mandela told investigators at the Truth and Reconciliation Commission this week that allegations about her involvement in murder and violence had been manufactured by pro-passandists in the former government.

A former warrant officer in the South African Police, Paul Erasmus, was the first member of Stratcom to tell of occasional covert dirty tricks against Madikizela-Mandela when he confessed to the Goldstone commission in Denmark in 1994/95. She has since paraded him in public on several occasions, the last being a press conference two weeks ago when she also presented five young men to the media whom she said were members of the Mandela United Football Club, but four of whom are East Rand activists.

The commission is understood to be preparing to ask several members of the former Mandela Crisis Committee to testify at her public hearing next month. Among them are former leaders of the Mass Democratic Movement Cyril Ramaphosa, Reverend Frank Chikane, Albertina Sisulu, Sydney Mufamadi and others.

Madikizela-Mandela said she had been a victim of a Stratcom operation run by the former South African Police. She named journalists and newspaper editors like the then *Weekly Mail* as having been used by Stratcom to blacken her name.

(2002) MHC 17-29/10/97

The semantic battles of Adriaan Vlok

Wally Mbhele

Colonel Jack Cronje, former commander of the dreaded Vlakplaas police hit-squad unit, this week went to listen to the Truth and Reconciliation Commission's hearings on the State Security Council with anticipation.

He was hoping his apartheid masters, specifically former minister of law and order Adriaan Vlok, would verify his amnesty submission — and scores of other police amnesty-seekers — that they were acting on orders from the top when they killed political opponents. Supported by his walking stick and in the company of his lawyer, Cronje left dejected with disbelief. His hopes were shattered.

He was clearly contemptuous of their explanations that terms such as "eliminate" or "remove permanently from society" were misinterpreted. According to Vlok and other core members of the security council, such terms did not mean "orders to kill political opponents".

They told the commission these terms could have been mistakenly interpreted by their subordinates to mean kill and torture opponents of apartheid. "All of a sudden they no longer know," said Cronje, after watching his amnesty case crumble into dust.

The purpose of the hearing, according to

the truth commission, was to gain an understanding of the motives and perspectives of key figures who served on the security council. It was also to inquire how they perceived and understood the nature of the past conflict.

At the end of the hearings on Wednesday, it was abundantly clear the truth commission had learnt little or nothing at all.

The most bizarre element that emerged in their testimony is that all went only as far as apologising for "mistakes" but stopped short of admitting authorising the actions of their foot-soldiers.

They spoke about the war that was taking place, for which they had devised "counter-revolutionary strategies" to win. But strategies to conquer the enemy were misinterpreted by the men who implemented them.

They were never able to explain why such misinterpretations became "so universal and systematic". Neither were they able to tell why the police considered blacks inferior.

"I became so unpopular in the police because I said 'let's go with a smile rather than a sjambok'. I took a sjambok out of the police hands," Vlok tried to convince the commission.

This moment came after Vlok surprised the audience with his avowed denials when he took the witness stand. He banged the table, continuously wagged his finger and time and

MTG 17-23/10/97 (252)

again reminded the commission that "these things happened on the ground. How were we supposed to know?" It's as simple as that.

"There was a chain of command. There's no way in which someone on the ground would phone me and say 'look, we've done this'. We at the top took certain decisions. We used certain terminology, not being aware that it would be misinterpreted; it was capable of misinterpretation."

Vlok said he would only accept moral responsibility for his men's actions. "I can't run away from those occasions where as a result of my words somebody committed an offence, I'm obliged to accept responsibility," he said.

"In a court of law, what status would that have? Were there no instances where you foresaw that you would in fact be bear criminal liability?" commission chair Desmond Tutu asked.

"Actually, I can't answer that, I must be honest," quipped Vlok, adding — in a clear reference to Tutu — "we should have listened to honourable and credible men but we were indoctrinated."

Vlok's submission drove Tutu to tell him "We've not got all the answers we had wanted from you. This was our last chance to deal with our horrible past." A chance Vlok and his ilk seemed to have ignored this week.



Shame: Former foreign minister Pik Botha said he cried when he heard his diplomatic bag carried bombs to attack the ANC

Lawyers feast at the body of truth

Lizeka Mda

Forget Zama-Zama. These days, the easiest way to make quick money is to represent former security officers in their amnesty applications.

Several hundred applications have already been processed and more are to come. And the taxpayer, through the relevant government departments, is footing the legal bill for these applicants.

To date, the Department of Safety and Security has received 414 applications for funding since the amnesty process began. For the small percentage of accounts that have

been certified, the department has already paid out R2 782 558.

From these accounts, it is clear that a select few law firms are cashing in. The Pretoria law firm of Wanger Muller & Du Plessis accounts for 142 of the 232 applications, while Van der Merwe & Bester of Port Elizabeth represents 22 of the 79 applications in the Eastern Cape.

Johan Wagener, who was a state attorney during the apartheid years, resigned his position to form his own law firm. He represents, among others, former minister of police Adrian Vlok, and former police commissioner Johan van der Merwe, and has instructed advocate Louis Visser — mick-

named "Goud Visser" in legal circles for the frequency with which he pops up — in all these matters.

Francois van der Merwe, representing clients like Gideon Niewoudt, an applicant in five matters — Mkhusele Jack, Steve Bilko, the Pebecco Three, Siphiso Mthimkhulu and the Motherwell Four — is instructing advocate Kobus Booysen.

With constant postponements, the legal bill is escalating. Ben Minnaar, from the office of the state attorney, confirms that it is a problem that hearings are postponed so frequently. The truth commission is feeling the pinch as well, and there are those who feel that some lawyers for victims prolong

matters unnecessarily.

"There was no justification for George Bizos to question Clive Derby-Lewis for three days," said one.

The TRC has announced that the life of the amnesty committee will be extended by four months and its members increased from seven to 19, at an additional cost of about R43-million.

The lawyers for the applicants aren't complaining. Another five weeks of Eastern Cape hearings can't be bad for their bank balances.

A Soman, the director of legal services in the secretariat for safety and security, says time and time again where the department is involved in litigation, some law firms are

favoured over the majority. He says he is watching the rulings of the amnesty committee with a keen eye and will see to it that the forfeiture clause, in which applicants who are denied amnesty pay back its legal costs, is enforced.

In practically all the hearings that have taken place so far, lawyers for the victims have opposed the applications on the basis that there is no full disclosure of the truth, a condition for granting amnesty.

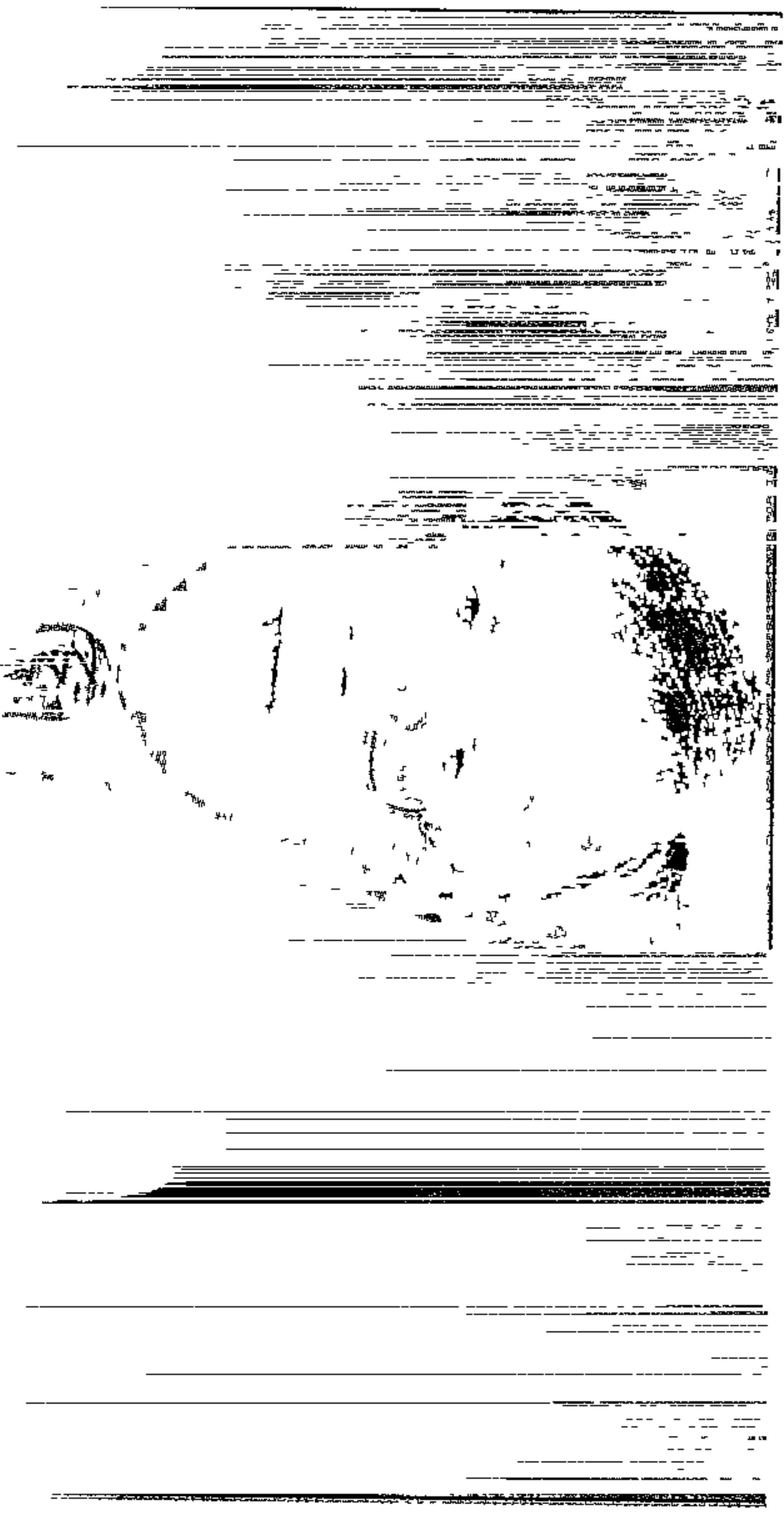
One assumes that having anticipated that the Department of Safety and Security would pay close attention to the forfeiture clause, the applicants and their lawyers would have seen the wisdom of investing the money paid by the department in high-yield ventures.

Which goes to show that apartheid, a crime against humanity, not only pays, but pays handsomely.

Victims get the short straw at hearings

MTG 17-23/10/97 (252)

The truth commission has its own gravy train — but it's not for victims, writes Lizeka Mda



Joyce Mthimkhulu is turning 61 on Sunday. She'll go to church, but that's the extent of her celebration. This Port Elizabeth family has very little to celebrate these days. Not when living from one day to the next is a struggle.

Try living on a R470 old-age pension when there are eight people to feed, clothe and keep healthy. "God finds a way," she shrugs.

Her faith has been tested. In 1982 her only son, Siphwo, was detained, poisoned, released, confined to a wheelchair, abducted and murdered by the police. Ten years later, her husband retired after 17 years as a security guard at Dora Nginza Hospital, only to be told that he had been a casual employee all those years and would not be getting anything for his retirement from his employer.

In January she applied for a pension but has yet to receive a cheque. Irony then that the most recent source of grief in the Mthimkhulu household is the truth and reconciliation process.

The Promotion of National Unity and Reconciliation Bill provides for "the granting of amnesty to persons who make full disclosure of acts associated with a political objective committed in the course of conflicts of the past. The taking of measures aimed at the granting of reparation to, and the rehabilitation and the restoration of the human and civil dignity of, victims of violations of human rights."

Appearing in front of the amnesty committee did nothing for their stripped dignity but just compounded the Mthimkhulus' victim status. Their ordeal raises some questions about the stated aim of the process of reconciliation.

The Mthimkhulus, with barely two cents to rub together, had to rely on the legal representation in opposing

the amnesty applications. But the board's tariffs — R150 a day for consultation, and R725 to appear before the amnesty committee — does not fire many lawyers with enthusiasm.

Fortunately, the lawyer the Mthimkhulus retained, Mpumelelo Nyoka, was prepared to work for the paltry sum. Not so the senior counsel he decided to instruct, Justice Phoswa. Now Phoswa's discounted rate of R5 000 a day, plus travel and accommodation, is bound for Nyoka's account because he knows the Mthimkhulus will not be able to pay.

"I've decided this is my contribution to reconciliation," says Nyoka.

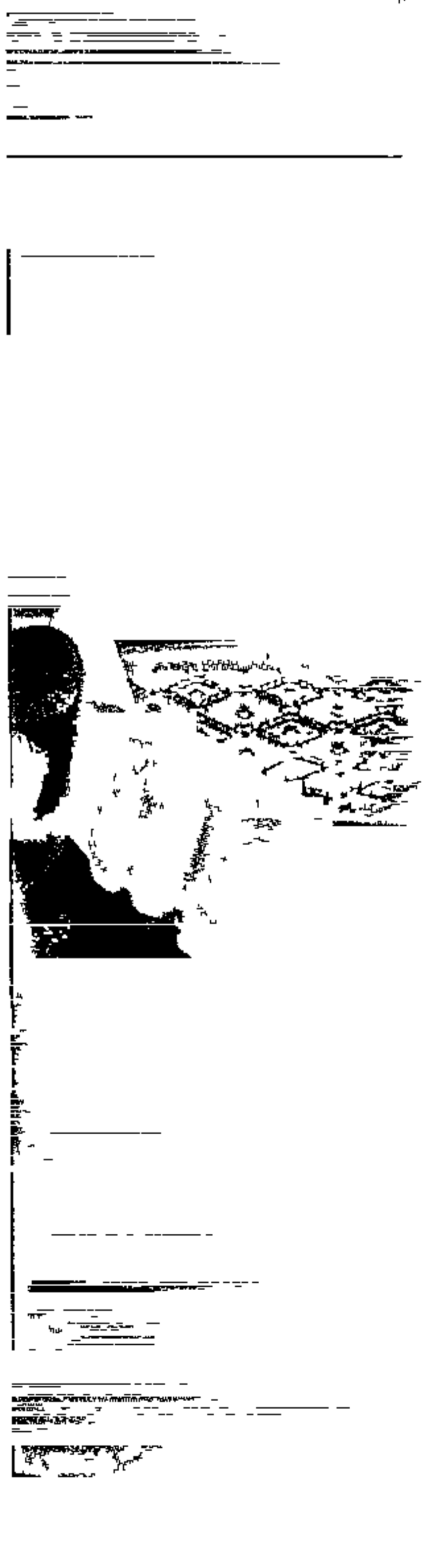
In the Mthimkhulu case and the majority of amnesty hearings generally, the perpetrators of human rights crimes are former security force members.

In a deal struck in an effort to persuade them to come forward with the truth, the Department of Safety and Security (read taxpayer) will settle their legal costs. But their rates, set by the state attorney, are much more attractive than the Legal Aid Board's.

Consultations and preparations have an hourly tariff of R250 to R400, while the appearance fee is R1 500 to R2 500 per day. If the lawyer represents more than one person, there is a descending scale, with a maximum of R4 000 a day per lawyer. Both the instructing attorney and the advocate are entitled to these fees.

These are by no means commercial rates, but they may just as well be for the comfort of the victims and their families draw from the situation. And there is a widespread feeling that the government is not as supportive as it could be, particularly to the thousands of activists whose cases have a lower profile than others.

Certainly the family did not have to scrounge around for funds



Coining it: Lawyers like Kobus Booyen (above) and Francois van der Merwe (left) are making good money from the TRC. PHOTOGRAPHS: RUTH MOTAU



to oppose the amnesty applications of Clive Derby-Lewis and Janus Walusz. And the Legal Resources Centre (LRC) which, while specialising in human rights violations, picks its cases, is handling the Balco and Cradock Four matters.

Advocate Patrick Mtshaulana of the LRC says it does not have an endless supply of funds. "As it is, we are still looking for a sponsor for the cases we have taken on," he says.

Phoswa says the discrepancy in the fees paid to lawyers for and against amnesty applications is an insult. "Everything possible is being done to see that one side gets proper representation while the other side gets nothing," he says. "But the

whole thing is in keeping with a trend which is completely unsympathetic to black people."

Joyce Mthimkhulu is very disappointed that in 16 years, the organisation his son was so dedicated to, and eventually died for, the Congress of South African Students (Cosas), has never offered any kind of support, let alone financial.

"Siphwo's two children have never even received a pencil from Cosas," she says. Others raise questions about the reluctance of lawyers generally, and black lawyers in particular, to come to the assistance of apartheid victims flowing in the 1980s and early 1990s

through the International Defence Aid Fund, and the South African Legal Defence Fund (Saldef), many lawyers went out and touted for political cases," says a lawyer who works for the truth commission. "Some even padded their fees. Surely it's payback time now? But they are nowhere to be found."

Saldef closed down in 1995 when its international donors decided to channel their funds to the new government instead, and to continue funding the LRC. They also decided that the Legal Aid Board could do Saldef's work.

Nobeko Maghubela, who used to head Saldef, is now a special adviser to the Eastern Cape premier. He recalls that there were about 300 law firms on Saldef's books.

Of those lawyers, the *Mail & Guardian* could only confirm one, Justice Phoswa, SC, as being involved in the amnesty process today. Many are now involved in government structures like Parliament.

As the amnesty process drags on for months to come, more and more apartheid victims like the Mthimkhulus are going to find themselves where they were before the truth and reconciliation process began — up a dry creek.



kaemia

am

air

incer

using outings and activ-
is
unpreferred means of get-

Hanged prisoners not zombies

AR 18/10/97

- or slaves

(252)

East London - In an effort to prove that people hanged by the previous government are in fact dead and not zombies or working as slaves in the South African Mint, the Human Rights Commission has established that relatives of those who were hanged may visit their graves in the Pretoria Central Prison.

Commissioner Anne Routier said the commission had received requests, mainly from the Eastern Cape, from relatives of people who were hanged to find out if their loved ones were "actually dead".

She said it appeared that some people believed those hanged were either zombies or being used as slave labour in the South African Mint.

Families from KwaZulu Natal were also expressing this fear, she said, but had not approached the commission.

Commissioner Routier said people perhaps believed their relatives were being forced to make coins in the Mint because it had been closed to the public and the names of its workers were unknown.

She was not sure if people believed zombies were working in the Mint, or if people on Death Row had not been hanged at all and were being used as slaves.

Commissioner Routier said the Central Prison had said that people who wanted proof that their relatives had been buried could approach the commission to organise permission to visit the graves.

The graves were marked and records had been kept of the deaths.

She was negotiating with the Ministry of Justice whether families could, probably at their own expense, exhume the bodies and bury them elsewhere.

Commissioner Routier said the SABC was planning to invite traditional chiefs and the South African Council of Churches to visit the Mint and prison in a programme which would address the zombie rumors.

She said it was "no good making a television programme if a lot of people don't have a TV" and so chiefs and the SACC would be asked to filter the message down to communities.

Rhodes University academic Cecil Manona said many people still believed in zombies, not only in South Africa but across the world.

He said people believed that a dead person became a zombie when the tongue was cut out before burial.

It was believed that zombies appeared at night like "ominous" ghosts and were unable to rest in peace. - ECN

Judges 'should have opposed' apartheid

A SUBMISSION to the

TRC by five judges asks

whether the legal system

facily supports the rule

of apartheid, CHIARA

CARTER reports.

FIVE of the country's top judges have made a submission to the Truth and Reconciliation Commission

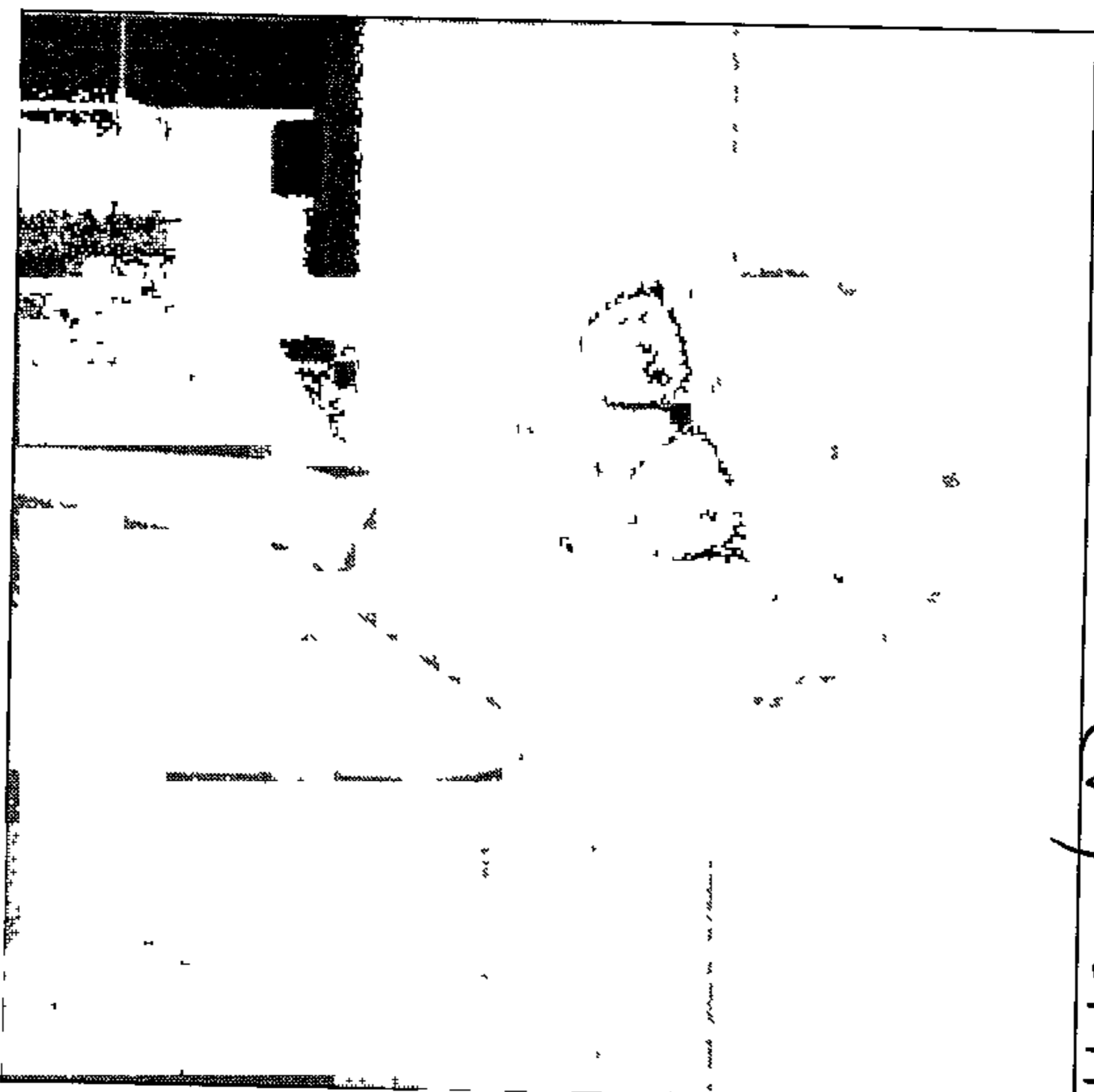
acknowledging that the legal system played a pivotal role in the gross abuse of human rights under apartheid rule

The joint submission contains the personal views of Constitutional Court President Arthur Chaskalson, his deputy, Pius Langa, Chief Justice Ismail Mahomed, his deputy, Hennie van Heerden, as well as former Chief Justice Corbett

It will be considered when the TRC holds a special hearing at the end of the month to inquire into the role played by the legal system in the protection and abuse of human rights

The judges' submission says law was the primary tool used to implement apartheid and South African judges failed to acknowledge that there was often "a difference between what was the law and what was just"

The submission sketches a picture



QUESTION OF LEGALITY... Constitutional Court President Arthur Chaskalson wants TRC to examine role of legal system under apartheid

of a discriminatory legal system with two kinds of law operating, one for whites and the other for blacks, the latter being criminalised for falling foul of apartheid laws

It singles out several notorious acts, including the Population

(252) EP 19/10/97

The judges say that the main cause of human rights violations was the "absence of democracy", which meant that most of the population did not participate in law-making

The principle of parliamentary sovereignty meant that courts applied laws made by Parliament but did not take into account that Parliament was undemocratic and fundamental rights were being violated

Often judges - who had to interpret laws - "failed to lean towards the protection of basic rights", but where benevolent interpretations were made - such as decisions on influx control policies during the 1980s - thus often significantly restricted breaches of individual liberty

The submission says lawyers were not schooled in a tradition of analysis and questioning

Most adopted an attitude that whatever appeared in the *Government Gazette* was the law and no further examination was needed

They also point out that there "is no simple answer to the debate" over whether by participating in the legal system those judges who did not support apartheid "were lending credibility to the judiciary"

The submission ends with the argument that in order to uphold the Constitution - which is now the supreme law of the land - the judiciary "needs the confidence" of everyone, including those "who were victims of the unjust legal system of the past"

Registration Act of 1950, the 1913 Land Act and the pass laws, as well as the series of laws designed to silence political opposition

It also looks at racism that operated in the legal system itself, saying that the courts were "manned by white men"

'Racial' law society

ep 19/10/97

(252)

THE BLACK Lawyers Association has withdrawn its members from the Council of the Law Society of the Cape - accusing the structure of breaching the terms of reference agreed upon by the two parties to transform the council and increase black representation

BLA national president, Jake Moloi, accused the Council of the Law Society of the Cape of Good Hope, which was created under the apartheid provincial boundaries, of paying lip-service and entrenching itself while trying to apologise to the Truth and Reconciliation Commission for past wrongs

Moloi said the BLA would not be party to the "massive fraud of perpetrating and entrenching white domination in the profession in the name of autonomy"

He said the organised bodies of the legal profession, which continue to be represented by the old provincial

THE BLACK Lawyers Association says that it will not lend acceptability, credibility or legitimacy to a racial and undemocratic legal institution. JIMMY SEPEPE reports on this wrangle in legal circles.

law societies, do not seem to be serious about transformation despite the fact that they propose shedding their past before the TRC.

Last year, the BLA and the National Association of Democratic Lawyers (Nadel) together with the provincial law societies of the old Cape of Good Hope, Natal, Transvaal and the Orange Free State signed a memorandum of understanding which agreed to the transformation of the governance of the attorney's profession.

The bodies agreed to a principle of representation where the governance of the societies would be

shared on a 50-50 basis - where BLA and Nadel would have 50 percent representation along with such structures

The agreement was supposed to have applied to both national and provincial levels

Moloi said 14 months after the signing of this agreement "nothing has come out" of it

"Instead, the Cape of Good Hope Law Society at its annual general meeting held over the weekend of October 11 - 13, rejected the principles agreed to as far as they relate to the provincial law societies"

Moloi said as a result of this

breach, the BLA was withdrawing its members because it would not lend legitimacy, credibility and acceptability to a racial and undemocratic institution which finds it easy to renege on its undertakings

"Their resolution is inconsistent with their resolution at the same session to go to the TRC to admit and apologise for their past discriminatory conduct," said Moloi

He rejected the society's proposal to hold elections on the principle of "one-man, one-vote" since it would not change their demographics

"At present, there are about 10 white lawyers to every one black lawyer in this country"

Moloi said something urgent needed to be done to bring about thorough transformation, not only in the attorneys' profession, but also among advocates

"There is no justification for the continued existence of the divided bar and the BLA will address this issue vigorously," said Moloi

So, we still don't know who gave the orders to kill

CP 19/10/97 25 (252)

This week saw four of apartheid's strongmen apologise for deeds committed by their security forces, but none of their statements resembled confessions of any kind. **DES BLOW** reports.

EXPLOSIVE EVIDENCE revealing the chain of command for the murderous activities by the security forces of the apartheid regime was expected when former members of the State Security Council "confessed" before the TRC this week

But instead of confessions we heard four apologists — Pik Botha, Adriaan Vlok, Roelf Meyer and Leon Wessels — claim they were "shocked" to find out only decades later what had really been happening

All of them maintained the security council had "never given authority" to the security forces to murder or torture the "enemy" — even though they were fighting a "total onslaught" against anti-apartheid forces and communism

They maintained that the security operations were carried out on "a need to know" basis

However, the cross-examination by members of the committee was mild compared to the torrid time given to Janusz Walus and Clive Derby-Lewis by George Bizos SC when they appeared before the TRC seeking amnesty for the murder of Chris Hanu

This week's proceedings ended with chairman Archbishop Desmond Tutu thanking them "for their courage" in coming forward and congratulating them on asking for

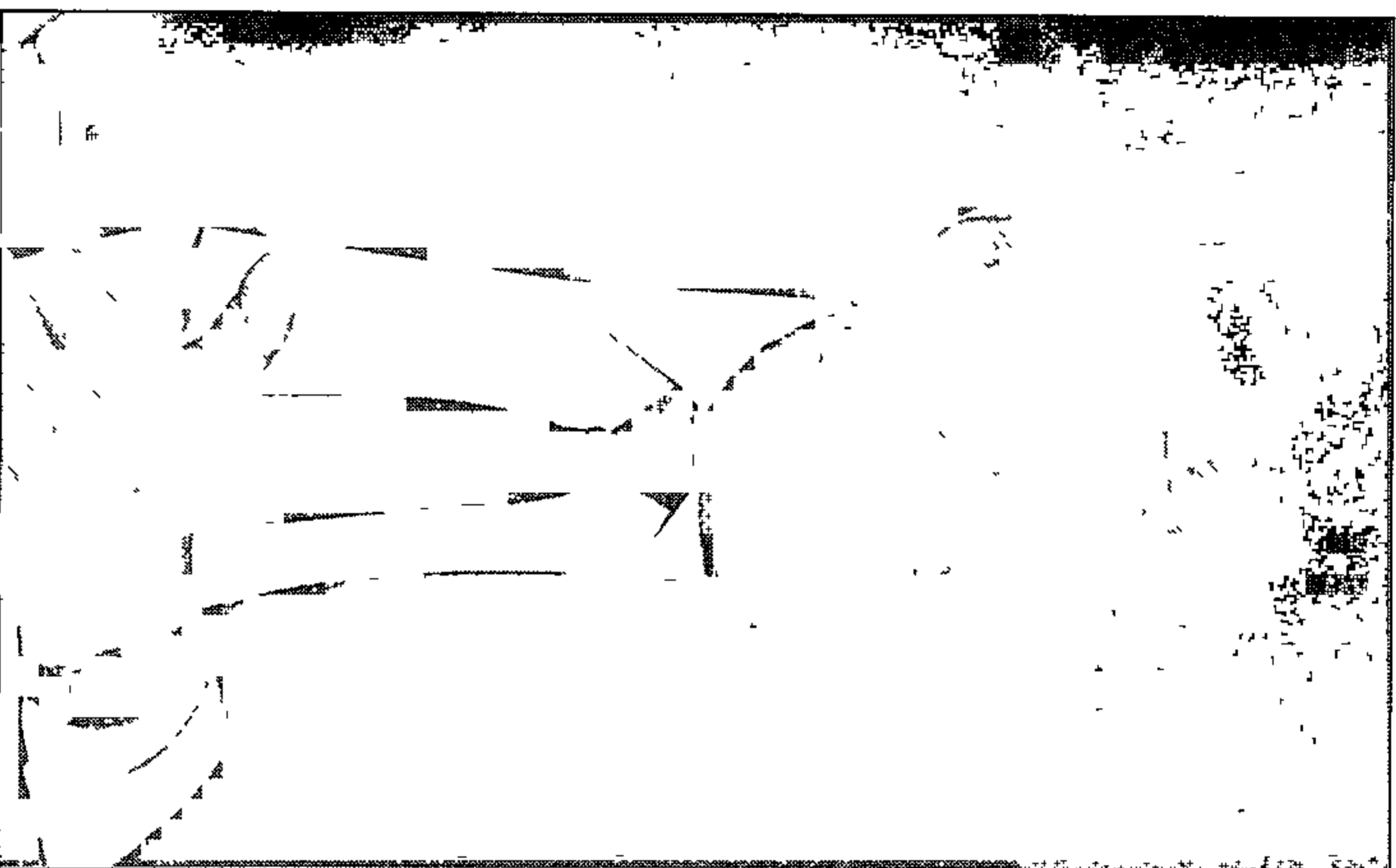
The ANC later criticised the proceedings saying that those subpoenaed should have been made to say how security and third force networks functioned and how extensive they were, but none of this was revealed in the two-day proceedings, and no more can be expected from the "Groot Krokodi!" P W Botha himself, even if the former president is ever brought before the TRC

The most honest of the four to give evidence was probably Leon Wessels, the former deputy law and order minister, who said he did not believe the defence that "I did not know" was available to him, because "in many respects I did not want to know"

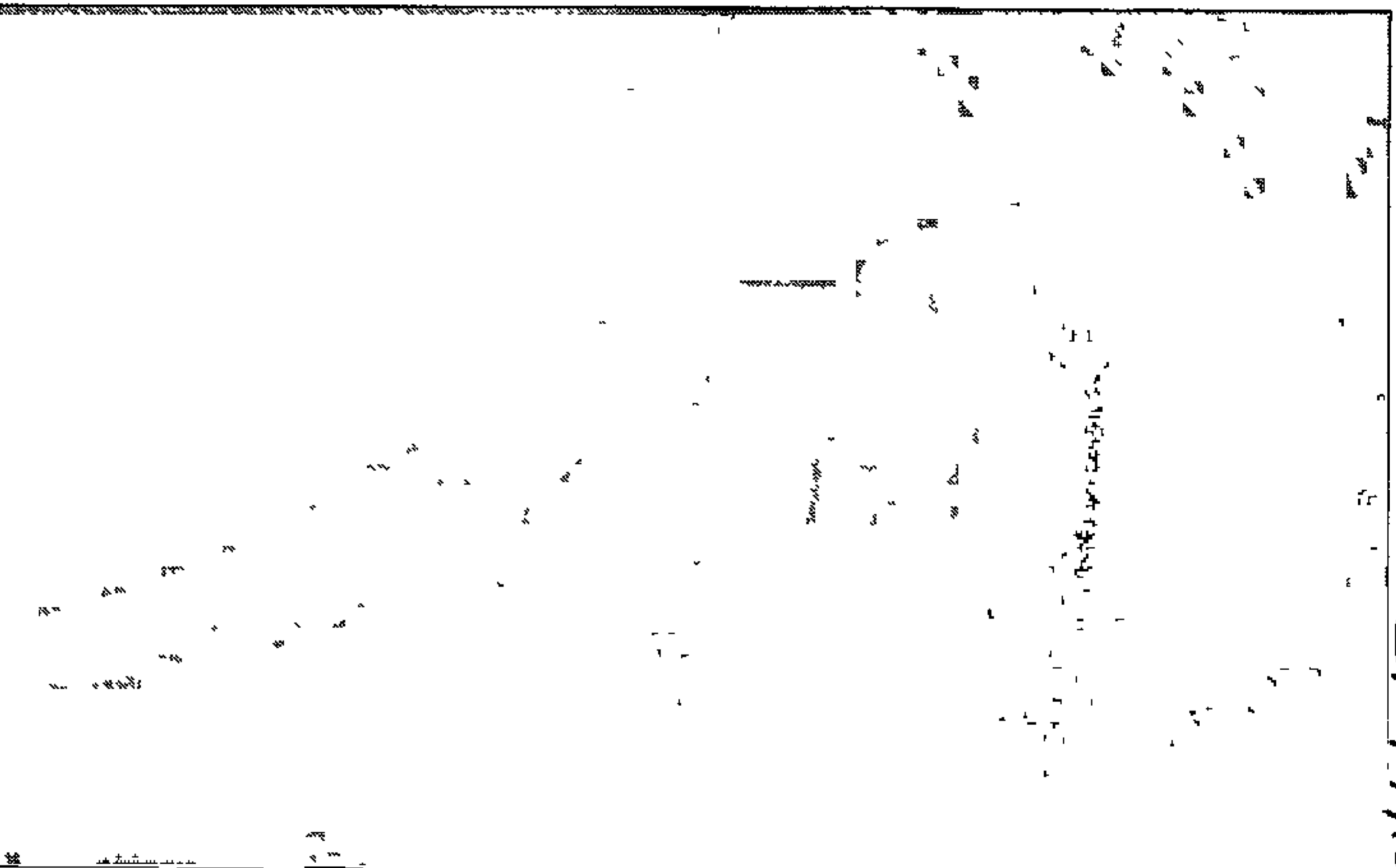
They were probably honest when they said that murder was never discussed at the SSC meetings — after all they were all family men and could not have faced their families had they blatantly ordered political killings

But words were used like "eliminate", "neutralise" and "wipe out" in discussions with their generals, who would, from a military viewpoint, only interpret them in one way

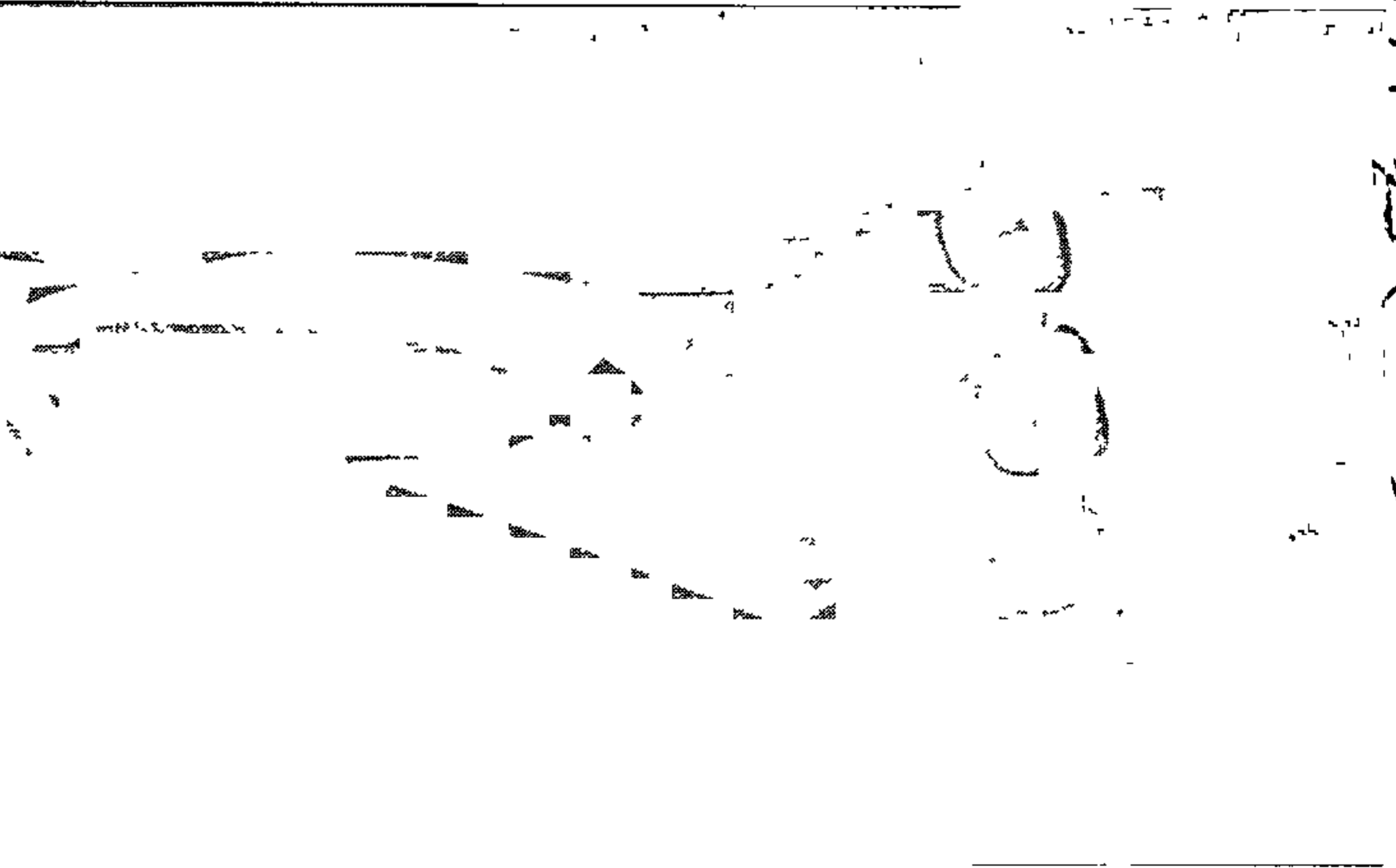
They were also most probably being truthful when they said that they felt uneasy at reports of murders and tortures, but as they admitted — they did nothing



DEFENDED MILITARY STRIKES . Pik Botha, former minister of defence said his government was at war with 'terrorists'



MORE COULD HAVE BEEN DONE... Leon Wessels said the security council failed to control its own security forces



PLEADED IGNORANCE OF TORTURE... Adriaan Vlok told the TRC he was unaware of inhumane treatment of detainees

14, who was often under threat for his life for his outspoken views during the days and nights of apartheid, even patted Pik Botha on the shoulder as Botha left the witness stand.

Of course, the commissioner's report - at the end of its duration - might not absolve these former leaders of the "volk" of the ghastly crimes that made South Africa the polecat of the world, but for the present, they must feel quite content with the way things are going.

But it must be painful for those who suffered and their relatives, and even for the former government's "foot soldiers" who carried out their so-called duties, to see their former leaders throw up their hands in protest - claiming innocence.

As far as is known Adolf Hitler never killed or tortured anybody, in fact he was known to be kind to dogs and children.

But he created the atmosphere and appointed the people to carry out the holocaust that swept through Europe.

He could have gone before a truth commission and honestly said that he never gave instructions for people to be tortured and murdered, or even "eliminated" - a word apartheid's security council often used when dealing with their military men and policemen.

This word in military parlance means to kill, but they say they did not mean the word to mean that. They also claim that their subordinates must have "misinterpreted" their instructions.

Voreo en Han not, according to their evidence, they believed the tales of torture and murder were

1960s believed Shandi Nardoo, a tiny, frail woman, who told in a haunting voice how she had been forced to make a statement by being forced to stand on bricks for days while being relentlessly interrogated.

"I never knew if it was night or day, or whether I was dreaming or awake," she said.

The judgment was ignored by the authorities. And so were the reports of every unbiased reporter who splashed the story both in South Africa and overseas.

But no inquiry was ever instituted.

Although most of the complaints before the TRC related to the 1980s - when the four served on the SSC - and when the horrors became more prevalent, there were reports in newspapers in South Africa and abroad from the 1960s of tortures committed under the 90-day and 180-day detention laws.

There were loud protests from the Black Sash and other human rights organisations, but the former nationalist government took no heed.

I saw Sulman Saloojee fall to his death from the seventh floor of The Grays in 1964 - where he was being held by the Security Branch.

He fell on the parapet on the first floor and I ran up the stairs but was intercepted by an ashen-faced "Rooi Rus" Swanepoel who then ran down the stairs to the body.

Swanepoel was then a sergeant, but rose to become a general - despite many allegations of torture

against him. The four witnesses were not members of the cabinet or of the SSC until the late seventies, 80s or 90s, but they were inculcated into the culture of violence spawned by the rule of apartheid.

The first of the four to give evidence this week was charmer Pik Botha, former minister of foreign affairs, who told of his difficulties in combating the "bad publicity" about South Africa overseas, and admitted that perhaps he should have taken a stronger stand or resigned.

However he omitted to mention his defence of the regime and his castigation of the United Nations for condemning the SADF raid on Lesotho in 1982 to "neutralise" a build up of "terrorists".

Those killed were mostly innocent civilians.

Instead, he came out in defence of the army who had announced gleefully they had killed Limpho Hanu, wife of ANC leader Chris Hanu, during the raid.

Mrs Hanu, a civilian who was working for the Lesotho Tourist Corporation in Maseru, took cover under a bed, with her three daughters, the youngest then aged two, while the SADF deliberately set out to kill her.

However, the strike force had stormed into a next-door apartment at Kuena Flats and instead shot at 21-year-old Mathumo Ralebitso, daughter of a former Lesotho cabinet minister.

The wounded woman jumped to her death - from the second floor - after the troops opened fire.

A nightwatchman described to City Press at the time how the troops had forced him to direct them to Mrs Hanu's flat but they had mistakenly stormed the wrong apartment.

Botha told the commission that

the raids on Harare, Gaborone and Lusaka on May 19, 1986 had not been discussed at any meeting, he had attended and that "we would certainly have opposed the raids most strongly".

However the ANC criticised Botha for turning the TRC proceedings into "theatrics" and recalled that after a raid in 1986 after a SADF raid on Swaziland - in which a 13-year-old child was killed - he had said on the SABC that he had been aware that the raid would take place and had approved it, and

Leon Wessels

On security police acts:

Since the days of the Biko tragedy, right up to the days of the hostel atrocities, the NP did not have an inquiring mind about these matters.

would make the same decision again with his (SSC) colleagues.

However, from his testimony this week it appeared there existed a state of mistrust among the cabinet ministers and Botha said he had been upset by the bombing of the ANC London headquarters in 1981 and the murder of Dulcie September in Paris in 1988, which he described as "bad stuff".

He said he was told by TRC na-

tional investigations' head Glenn Goossen that the TRC had information that part of the bomb component to bomb the London ANC headquarters had been smuggled to London in the weekly diplomatic bag.

Botha said he believed that the secret seal on the bag had been illegally copied by persons unknown - who had placed the component in the bag.

He described this as "a crime of gross proportions".

Botha said that he had set up his own departmental technical team "to check embassy telephones for listening devices".

He said the question was "whether we should have done more to ensure that the killings did not happen".

"I deeply regret this omission May God forgive me," he said.

Adriaan Vlok, the former minister of law and order, who visited Vlakplaas to decorate "hit squad" cops told the commission that he had been "led to" by his subordinates - who had recommended medals for brave actions he now knew to be illegal actions.

Sitting between his two legal advisers the man blamed by activists for many of the killings and tortures claimed he had "never ordered" such methods and that down the chain of command someone may have misinterpreted the words "eliminate", "neutralise" and "wipe out" to mean "kill".

He claimed this had never been intended when the words were used in discussions by the SSC.

He apologised for the "unfortunate deaths" and said that although instructions had been misunderstood he still felt morally responsible for the actions of his "foot soldiers".

"A mistake was made. It was a bona fide mistake and we will have

to live with it, things went awry," he said, gesturing emphatically.

He admitted that he had never called for an inquiry into allegations of murder and torture despite deaths in detention and said he had relied on reports from the then commissioner of police.

"The fact is that I, and probably the police generals, were blissfully unaware of the true facts," he said.

He said he was in an invidious position and had to react on the information given to him.

"In all the reports that found themselves to my desk, there was not a single case in which it was said that we tortured a person before he gave us information," Vlok said.

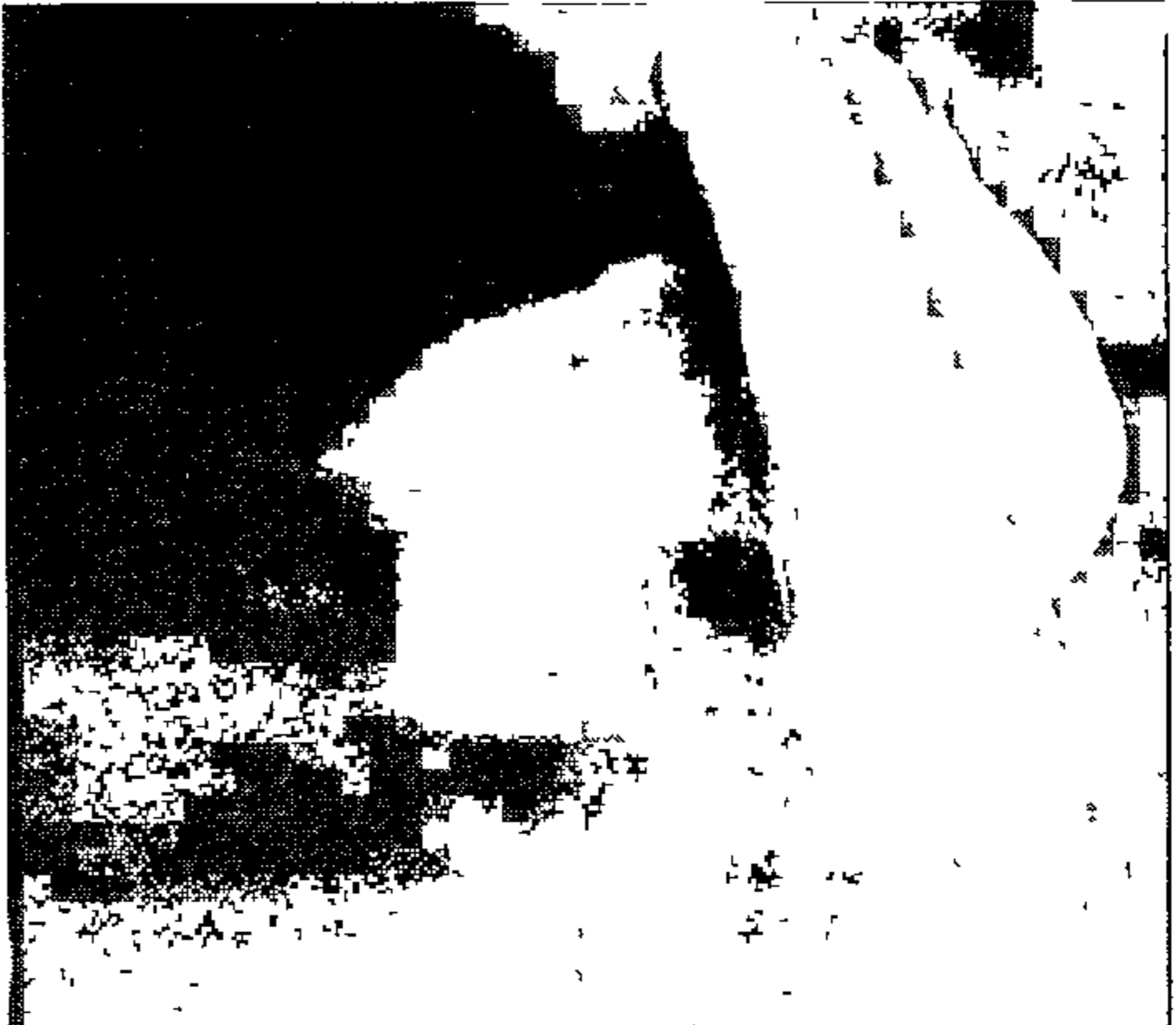
Former deputy minister of law and order Roelf Meyer denied any knowledge of any organised attempt to identify specific targets to be killed. "I never had any knowledge of any organised attempt within the government to identify specific targets, or do planning for the destruction of such targets on the basis of a conspiracy or a plot," he said.

He said, with hindsight, it could be argued that more stringent steps "should have been taken" to prevent unlawful activities by the security forces. For such omissions I accept political responsibility.

Leon Wessels, also a former deputy minister of law and order, said the Nationalist Party government had failed "to exercise proper control" over its security forces and intelligence apparatus.

He said that if this had been done the TRC would not now have to listen to evidence that the security forces "believed" they acted with authority.

Should the four be expecting amnesty, the TRC will have difficulty in justifying it because they seem to have simply passed the buck



SURVIVED... Limpho Hanu and her children would have died in a cross-border attack in Lesotho, but apartheid's security forces targeted the wrong apartment, killing the 21-year-old daughter of a Lesotho cabinet minister.

nothing more than communist propaganda, this, despite the number of dead bodies.

According to Vlok, the former minister of law and order, allegations were made in courts of police torturing their victims, but he let the courts deal with the claims, where they were mainly discounted.

But not all judges discounted the claims. The judge who listened to a case against Winnie Mandela in the

TRC unit director resigns, accuses Ntsebeza of racism

By SIFELANI MLAMBO

THE TRUTH and Reconciliation Commission this week received a major blow when its investigations unit director and prominent Eastern Cape human rights lawyer Glenn Goossen abruptly resigned, accusing the TRC of being racist.

Goossen resigned with immediate effect after a heated row during a meeting with the TRC head of investigations Dumisa Ntsebeza.

He said he was fed up of Ntsebeza's line of questioning which had racist overtones.

Goossen is understood to have walked out of the meeting after telling Ntsebeza that he was a racist.

The allegations of racism are believed to have been sparked by Ntsebeza's questioning of former SADF and police generals.

Goossen is also understood to have been against Ntsebeza's attempts to wind down the investigations unit of the TRC.

City Press also understands that Goossen felt that the entire TRC

(252)
body was against him and thus he opted to bow out.

When City Press contacted Goossen last night he said he was not in a position to comment on the matter.

Contacted for comment Ntsebeza referred questions to either TRC deputy chairman Alex Boraine or TRC chairman Archbishop Desmond Tutu for official comment.

He said he wanted Goossen to lay the cards on the table before he could comment on the matter.

He confirmed that things were not well between him and Goossen but could not be drawn to comment on whether Goossen had resigned.

Ntsebeza said he was aware of the allegations of racism made by Goossen against him and said the issue would be discussed at a special meeting soon.

Both Boraine and Tutu were aware of the issue and were handling the matter.

Neither Boraine nor Tutu could not be reached for comment last night as their cellphones were on voice-mail.



TRC HEAD ... Glenn Goossen has referred all questions regarding his resignation to Desmond Tutu

CP 19/10/97

Judges say they're guilty

CARMEL RICKARD

(252)

SOUTH Africa's top judges have acknowledged that the legal system under apartheid helped provide conditions under which human rights abuses could flourish

The statement comes from the five judges who have headed the judiciary since the start of South Africa's political reform: former Chief Justice Mick Corbett, his successor, Chief Justice Ismail Mahomed, the deputy chief justice, Mr Justice Hennie van Heerden, the president of the Constitutional Court, Justice Arthur Chaskalson, and his deputy, Justice Pius Langa

A joint statement on any issue by these top judges would be remarkable, but the fact that their submission

concerns such a sensitive issue makes the document historic

It will give a major boost to the Truth and Reconciliation Commission inquiry later this month, in particular by giving a lead to judges who might still be wavering on whether to participate in the hearings — or even whether the hearings are in principle a good thing

In their landmark statement, the five answer such doubts at the outset. "The exercise being undertaken by the truth commission is an important one for the future of the administration of justice in South Africa. It is necessary for us to acknowledge the shortcomings of the past and to understand the reasons for those shortcomings"

● See Page 25

ST 19/10/97

Winnie stuns ANC with death penalty referendum call

RAY HARTLEY and CYRIL MADLALA

AT 19/10/97

WINNIE Madikizela-Mandela has stunned her ANC colleagues by saying a referendum should be held on the death penalty because criminals are getting off "scot-free".

Madikizela-Mandela made the statement, which flies in the face of the Constitution and long-standing ANC policy, at a closed meeting of the party's policy makers in Midrand recently.

Her spokesman, Alan Reynolds, confirmed yesterday that she told the meeting "Crime is running rampant because criminals say they won't get the death penalty. Don't we as a democratic country have an obligation to take this to a referendum?"

The death penalty call is part of her campaign to defeat Mpumalanga Premier Mathews Phosa and ANC chairman Jacob Zuma in elections for the ANC deputy presidency at the organisation's December congress.

In another move yesterday, she lashed out at the ANC and other political parties for being "in agreement" that she should not be elected deputy president.

Madikizela-Mandela's request for a re-opening of the debate on the death penalty is likely to anger President Nelson Mandela, who has publicly declared that the death penalty will not be reconsidered.

At the Midrand meeting she criticised the ruling party for failing to deliver houses. Madikizela-Mandela also asked when the government would deal with illegal immigrants, especially the Mozambicans.

Madikizela-Mandela also lambasted the ANC in government for

- Affirmative action "based on nepotism" rather than on ability,
- Failing to listen to Cosatu's criticisms of its economic policies, and
- Failing to implement a constituency-based parliamentary system.

Madikizela-Mandela's populist election platform has come as the ANC has begun grappling with how to instil discipline among members seeking public office.

The Sunday Times has learned that a task team, consisting of Water Affairs Minister Kader Asmal and Kwazulu Natal transport MEC S'bu Ndebele, has proposed that the party change its constitution to ban opposition to "duly endorsed" candidates for top positions.

The ANC national executive committee is expected to endorse their report next

Tutu's body no closer to the truth

LAURICE TAITZ

(252)

ST 19/10/97

THE truth commission's inquiry this week into the activities of the State Security Council appeared to raise more questions than it answered

The two-day hearing in Johannesburg sought to establish the role of the council — responsible for advising the former government on national security policy — in unlawful activities committed by the former security forces

But in response to commissioners' questions, Adriaan Vlok, the former law and order minister who served the previous government from 1986 to 1991, said the council had never instructed the security forces to act unlawfully

Vlok also said he was never officially informed of unlawful activities, and claims against the police had often been dismissed as "the people who made them were regarded as the enemy"

Vlok said state security policy had been misinterpreted, and top-ranking security force personnel failed to keep him fully informed of their activities

He said "We used terminology capable of being misinterpreted — words like neutralise and eliminate"

Vlok submitted that it was never his intention that unlawful actions should occur "No member of the police force had licence to act illegally"

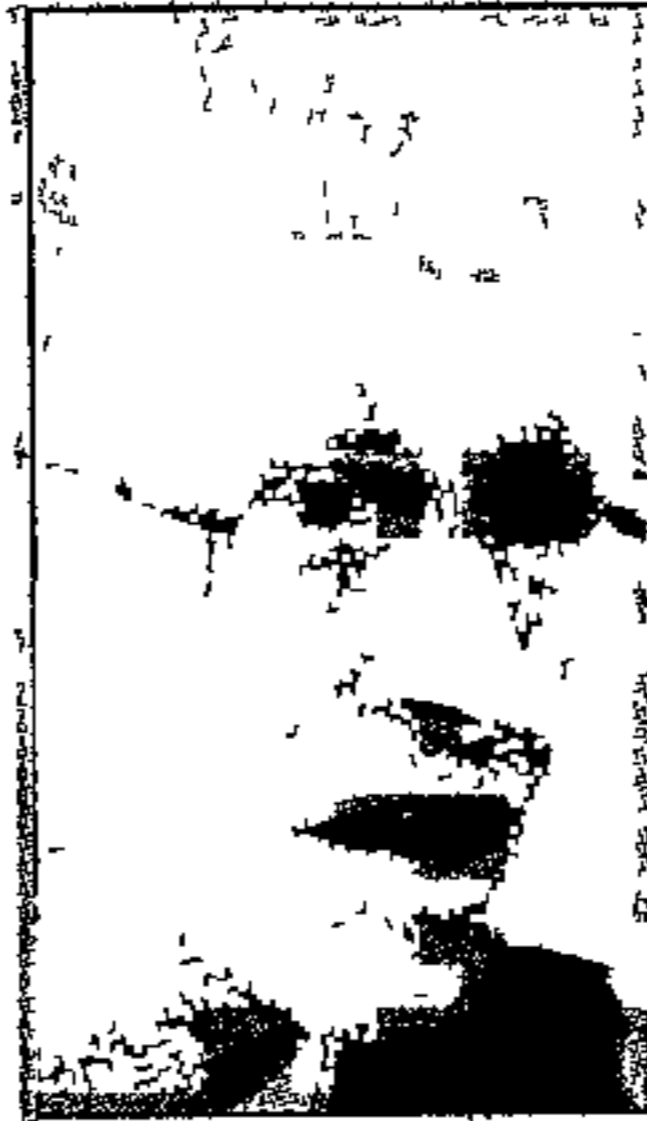
Dismissing reports of cover-ups of security force activities, he said members of the force were never regarded as the "cream of the crop", and did not receive special treatment

"No politician has thus far admitted that the cabinet or the council gave direct instructions. These were never given. There were also no discussions happening anywhere else"

In response, Archbishop Desmond Tutu, the commission's chairman, said "People had a universal image of the police as trampling on black people's dignity and their rights. This was not an aberration"

He questioned how the police's behaviour could have been systematic if it was not ordered from above

Vlok blamed apartheid policy



IN THE DOCK: Adriaan Vlok told the truth commission that no member of the police had licence to act illegally under the previous government

"For many years we had a policy which said certain people are inferior"

"I became unpopular when I said let us go into the townships with a smile rather than a whip or a sjambok. You simply don't beat people like that. It is not necessary." But he conceded "We did not do enough to protect black South Africans"

Roelf Meyer, deputy law and order minister from December 1986 to March 1988, refused to be pinned down on where responsibility should lie for unlawful security force activities

Asked who was to blame, he said "Nobody has the answer. Things developed over time in such a way that we were all part of a frame of mind"

"We believed there was an enemy to be wiped out, that there was no just cause for the majority. Maybe fear dictated state actions"

Leon Wessels, who also served as a deputy law and order minister, under P W Botha, said "One cannot shy away from the fact that within the framework of apartheid, with its security legislation, it was foreseen that people would be detained and tortured"

"I don't believe that I can stand up and say 'Sorry, I didn't know'"

Wessels said his job had been to manage the state of emergency. He never instructed the security forces to commit unlawful activities, but he could not shy away from the fact he was on the side of those who had committed them

Unanimous verdict on law

The law and legal system played a crucial role in defining and implementing apartheid. This is the claim of five leading judges in their submission to the Truth and Reconciliation Commission, writes CARMEL RICKARD (252)

THE five top judges presiding in South Africa since the change in government have made history with a joint submission to the Truth and Reconciliation Commission.

Their 22-page submission effectively gives their blessing to the commission's hearing — scheduled for October 27 to 29 — on the role of the law and the legal profession in permitting human rights abuses under apartheid.

The judges are former Chief Justice Mick Corbett, who stayed on to head the judiciary during the period of transition but who has now retired, his successor, Chief Justice Ismail Mahomed, Deputy Chief Justice Henne van Heerden, the president of the Constitutional Court, Justice Arthur Chaskalson and his deputy, Justice Plus Langa.

Although succinctly written, their submission dodges no issues. They acknowledge the primary role played by the law and the profession in maintaining apartheid and the generally inadequate response from judges and lawyers when faced with apartheid injustice.

They write: "Apartheid was defined by law and enforced by law. It is necessary, therefore, to acknowledge the role of the legal system in upholding and maintaining apartheid, and the injustices associated with it. There can be no half measures about this. Apartheid caused poverty, degradation and suffering on a massive scale. Apartheid in itself and in the way it was implemented, constituted a gross abuse of human rights."

They also note some of the serious legacies with which the present legal system continues to struggle.

"The consequence of this discriminatory legal system is that black South Africans, more than white, quite justifiably harbour a sense of injustice and anger at the failures of the law and the legal system to provide protection during the years of apartheid."

And, since racism was enforced through the law and the courts, "it is hardly surprising that law, law enforcement agencies such as the police, and the administration of justice generally, lost their legitimacy in the eyes of the majority of South Africans. A further effect was to reduce, for that majority, the stigma that generally attaches to prosecution and imprisonment," the judges say.

During the apartheid years, as opposition to the system increased, the government began to introduce detention without trial, a system which the judges note "caused acute suffering to many detainees."



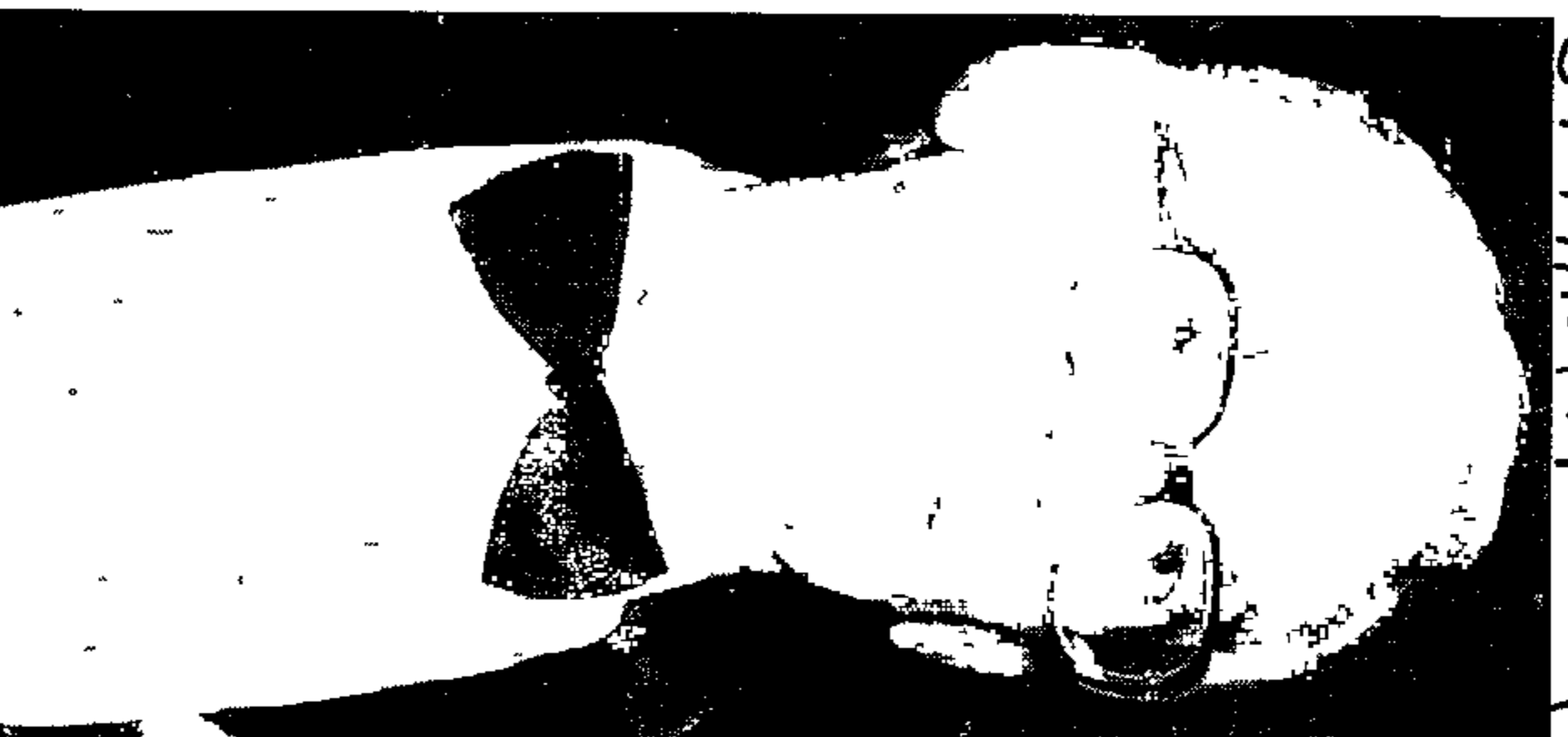
MICK CORBETT
Former Chief Justice



PUS LANGA
Constitutional Court Deputy President



ARTHUR CHASKALSON
Constitutional Court President



HENNE VAN HEERDEN
Deputy Chief Justice



ISMAIL MAHOMED
Chief Justice

"The primary cause for the violation of human rights in South Africa was the absence of full democracy caused by the denial of the right to vote to white South Africans not classified as white. The injustices which flowed from the racist legislation enforcing a system of white supremacy and from the laws quelling political dissent were all a direct or indirect result of this policy."

They acknowledge that institutional racism was at work in the administration of justice no

which accepts that the legislature is elected by the people and its will should be paramount.

"In South Africa, the doctrine of parliamentary sovereignty was adopted despite the absence of a democratic legislature. This anomaly was rarely the subject of judicial acknowledgment."

It is also widely agreed that where parliamentary sovereignty prevails, if there is ambiguity or uncertainty about the precise meaning of a law,

the violations of human rights brought about through the policy of apartheid and to improve the circumstances of black South Africans. These focused on issues such as influx control, labour law and forced removals, as well as defence in political trials.

"No account of these years would be accurate if it were not accepted that justice was done and seen to be done in some cases. In this way, principles and values central to the rule of

future, the judges say that the most important has already been learnt — the need for a democratic form of government. Under a constitutional democracy with an entrenched bill of rights, the judiciary has been given the powerful new function of monitoring the conduct of the legislature and the executive to ensure that human rights violations do not occur.

Land. What is essential for the proper discharge of this role is that the judiciary should have the confidence of everyone, including those who were victims of the unjust legal system of the past. There needs to be an acknowledgment of the pivotal role played by the legal system in the gross abuses of human rights which were committed. Not as an end in itself, but as a prerequisite to the discharge of our present and future responsibilities for the achievement of

'Since racism was enforced through the law and courts, it is hardly surprising that law, agencies such as the police, and justice generally, lost their legitimacy in the eyes of the majority of South Africans'

BENZHEN 'LESS THAN TRUTHFUL'

MK victims ditch

support for torturer

CT 20/10/97 (252)

MICHAEL DONEN, counsel for former detainees, says SA is breaching international conventions by granting amnesty to torturers. Political Writer **ANDRE KOOPMAN** reports.

INFAMOUS former security policeman Mr Jeff Benzien — accused of administering electrical shocks to detainees and political prisoners — is in for a shock of his own today

A group of former uMkhonto weSizwe cadres — who had been tortured by Benzien and were prepared to support his amnesty application — have decided to withdraw their support. They say he has been less than truthful about his methods

They say the man known for his "wet bag" torture technique — and which he demonstrated before the Truth and Reconciliation Commission — has withheld much, including details of his administering electric shocks

Mr Michael Donen, counsel for a group of former Forbes and Yengeni trialists tortured by Benzien, said there were crimes, such as genocide and torture, that no state could "indemnify" according to international conventions. By providing torturers amnesty, South Africa was "breaching" its international responsibilities, he said

He would argue this when Benzien appeared before the TRC in the city today.

"If the TRC indemnifies these people for torture, then it will be doing what the previous regime did and it will also be creating a safe haven for criminals"

Those who have decided not to support Benzien's application are

Mr Tony Yengeni and his wife, Lumka, Mr Peter Jacobs, Mr Walter Rhooode, Mr Gary Kruser, Mr Anwar Dramat, and Mr Ashley Forbes and his wife, Ms Yasmina Pandey

Yengeni, an ANC member of Parliament and former MK commander, said the reason for the group's decision was that Benzien had been less than truthful. He had been consistently evasive about his chain of command and about who had given the orders to torture

"It is an international crime and we want to be consistent with the international tradition of discouraging and even prosecuting those that torture," Yengeni said

"Our concern is that he is not telling us who he was working with, how he got the orders and how the whole thing worked. There are many, many people who were involved in the beating, the torture and the killings who have not been mentioned. We wonder why. If we're not talking openly and freely, what is the value of the process?"

The TRC had been set up to "heal this land" through the frank disclosure of details of apartheid crimes, Yengeni said. However, it seemed most of the reconciling had been by those who had borne the brunt of these crimes, "while the torturers and murderers expect to get off by making token submissions"

Yengeni declined to discuss his experiences of torture, but said he

wanted Benzien to be prosecuted "locally or abroad"

Forbes, now development and planning manager on Robben Island, said Benzien had chosen to talk only about the torture of prominent people. He had ignored many other people

He said he had been tortured and "patched up" medically, only to be tortured again while being held in solitary confinement

"That Benzien hides this system makes me angry. We are trying to ensure this does not happen again"

"He doesn't want to admit that he shocked people — he only talks about how he used the black bag"

"We believe in the process of reconciliation. If Benzien had been honest we would have gone along with the process."

Kruser, director of the police National Protection Services, said "As victims of torture it is difficult for us to accept Benzien should be given amnesty, but we were prepared to compromise for peace. The truth is all we want."

"If people were prepared to tell the truth, we would have been prepared to take the pain of past torture and to support amnesty in the interests of reconciliation"

He still bore the psychological scars of being tortured and had gone to a psychologist, Kruser said. He had also visited Benzien

"I spoke to him about the torture and I told him my views on reconciliation. We have been prepared to put out our hands for reconciliation. But it all comes from our side"

Ms Lumka Yengeni said "Benzien must be punished"



UNITED STAND: Former uMkhonto weSizwe cadres ANC MP Tony Yengeni (front, left), Ashley Forbes, Peter Jacobs (back, left), Gary Kruser, Lumka Yengeni, Walter Rhooode, Yasmina Pandey and Anwar Dramat have withdrawn their support for former security policeman Jeff Benzien's amnesty application **PICTURE: BENNY GOOL**

Notorious cop to face TRC

Western Cape policeman Jeffrey Benzien to apply for amnesty for torture of six activists

By Simon Zwane and Ido Lekota

MORE revelations of the torture of activists by security police in the name of apartheid are to be made at the Truth and Reconciliation Commission hearings in Cape Town from today

Already the TRC's amnesty committee has heard harrowing evidence of tortures ranging from suffocation with a wet bag to beatings and the dreaded "helicopter"

Returning to the TRC in Cape Town today is notorious Western Cape policeman Inspector Jeffrey Benzien, who is seeking amnesty for the death of United Democratic Front activist Ashley Kriel

Benzien appeared before the TRC's amnesty committee in July this year, exactly 10 years after Kriel's murder, but the hearing was postponed

Before the adjournment in Cape Town Benzien demonstrated to commissioners how the police tortured their victims using the "helicopter" - tying hands to feet while sitting on the back of the detainee, and then suspending the victim from a stick

Benzien is also seeking amnesty for torturing activists Peter Jacobs, Ashley Forbes, Tony Yengem and Gary Kruser. His colleague Superintendent William Rudolph Liebenberg has also sought amnesty in these cases

Next week, three convicted Azanian People's Liberation Army members - Richard Dala (49), Zola Mabala (28) and Humphrey

Gqomfa (30) - will appear before the committee to seek pardon for the December 1993 Heidelberg Tavern shooting in Observatory, Cape Town

Four people died and at least five were injured when attackers walked into the crowded bar and opened fire indiscriminately

The applicants are serving jail terms ranging from 18 to 27 years for murder and attempted murder

● Meanwhile, allegations of racial tensions between black and white commissioners in the TRC have resurfaced following the resignation of a leading member of the commission's investigation unit

Mr Glen Goosen is said to have resigned last week in the aftermath of a reportedly heated meeting with his superior, TRC investigation chief Dumisa Ntsebeza, whom Goosen has apparently accused of being racist

Meanwhile, TRC insiders said the collision between Ntsebeza and Goosen was long overdue because of the unhealthy relationship between black and white commissioners attached to the investigation unit

According to a well-placed source, TRC staff have been circulating a letter by a fellow staff member in which concerns are raised about the alleged marginalisation and exclusion of black commissioners from certain investigations - especially those involving white perpetrators and black victims

"The question for most commissioners has always been, who is running the investigation unit, Goosen or Ntsebeza?", the source said

We'd be worse off if hanging came back

Star 20/10/97 (252)

Bringing back capital punishment would, among other bad reasons, delay the fight against crime, writes Dr Paul Voice

Reinstating the death penalty on a majority vote in a referendum is a very bad idea

It is a bad idea because capital punishment in itself is a bad idea, because a referendum would undermine the integrity of our constitutional democracy, and because reinstating it would delay the fight against crime - or perhaps even ensure that the fight is lost

The most popular argument favouring capital punishment is the deterrence factor. It is also the worst argument

It runs like this, since death is the ultimate loss anyone can suffer, death is the ultimate deterrent. If you threaten a criminal with death he will desist. Thus capital punishment deters criminals from committing crimes

This looks like common sense. But common sense in this instance parts with the facts of the matter and with what a little reflection demonstrates

The fact is that social scientists have no conclusive evidence whatsoever that killing criminals deters other criminals from committing crimes

Those favouring capital punishment often speak as if there is such evidence, but there is none. There is simply no statistically significant correlation

Moreover, comparisons between American states which do and do not execute their criminals reveal no empirical support whatsoever for the idea that the death penalty is a deterrent.

More specifically, one study which tracked the number of murders in Chicago during a nine month period in which there was intensive news coverage of two executions found that the rate of murder varied quite independently of the wide public knowledge of the criminal's fate

On the other hand, it would be unfair and incorrect to claim that the evidence shows conclusively that hanging people is not a deterrent

We know the numbers of people who are not deterred because we know the number of people who do murder

We cannot, of course, count the number of people who are deterred by thought of a future execution because they are unlikely to publicise their unfulfilled murderous intentions

Nevertheless, a little reflection shows a lack of hard empirical evidence favouring the

case for the death penalty is supported by what it is reasonable to suppose

Let us line up all the hijackers, murderers, rapists and cop killers. The very idea of deterrence requires that the would-be criminal calculates the cost of his crime before committing it. So subtract from their number those who commit their crime in a fit of rage. They do not calculate costs and so they cannot be deterred

We must also subtract all those whose mental stability is impaired in some way since calculating is a rational activity beyond the powers of the mentally ill.

Finally we must subtract all those who believe, first, that they will not be apprehended, secondly, those who believe even if they are apprehended they will not be convicted, and thirdly, those who believe if they are convicted they will receive clemency

For now we need to note just this: if we grant the deterrence argument everything, even its dubious factual claims and its common sense appeal, then only

a tiny proportion of criminals who commit capital crimes will be deterred by the prospect of being hanged

However, we can grant much more than this. We can even entertain the thought that judicial killings are an effective brake on criminal intentions.

There is one further argument which is almost never addressed by the pro-hanging lobby. Even if hanging criminals deters further crime it still has to be shown that hanging is a more effective deterrent than life imprisonment.

This is not an argument the pro-hanging lobby has bothered to consider and until it does its claims favouring executions have no substance

Note that this is not short-hand for a weak-kneed liberal dream of rehabilitation but the demand for some compelling reasons why imprisoning someone for the rest of his life is a less effective deterrent than executing him

And those who think that hanging people is cheaper than detaining criminals are wrong. It has been shown that once one calculates the costs of courts, appeals and special

prison arrangements, it is cheaper to imprison criminals than it is to kill them.

To reiterate: the deterrent argument has no basis in fact or reason and, even if it did it would have to be shown that hanging is a superior deterrent to life imprisonment and this has not been done.

Some facts we do know. We know disproportionately more poor and disadvantaged criminals are executed than wealthy and privileged criminals, even when the crimes they commit are comparable.

We also know that some people are executed by mistake. But these facts do not help the cause of the pro-hanging lobby. On inspection the deterrence argument collapses. There is no reason to suppose killing criminals stops crime.

There is another, less seemingly, motive for wanting to kill criminals: revenge. This is the "kill-the-bastards" argument. It is usually raised in

this way. how would you feel if someone raped your daughter or killed your wife?

My answer is "kill the bastard". In fact, vindictiveness, anger and revenge

in such circumstances is probably the most human of reactions. Something would be wrong with a person who could not feel these things, at least initially. Moreover, it is human to identify with victims of crime and to feel anger and vindictiveness on their behalf

However, the punishment of criminals is a matter of public policy and, on the issue of capital punishment, a matter for the Constitutional Court

The constitution represents what values we, as a nation, hold to be of the utmost importance. These values have been reached on the basis of cool reflection taking into account the kind of society we have and the kind of future society we want to build

The constitution is supposed to represent us in the very best light. Angry, vindictive and vengeful citizens are not cool and calm reasoners. Thus a referendum on the issue of capital punishment would make our constitution hostage to the very worst in us.

The constitution would reflect not the democratic values on which our new society has

been founded, but the values of an angry mob.

Those who opposed democracy in our society were always unable to distinguish between a society based on democratic values and what they called "mob rule". We run the risk of making the same mistake when we baptise referenda on issues like capital punishment with democracy.

Democratic institutions distil the best of our opinions and thoughts, shedding the passion and the anger along the way.

A referendum on capital punishment would undermine the democratic values we treasure and undermine the very idea of constitutional democracy. We can think of our democratic practices as a procedure for refining our views, shedding our emotions and aiming at wisdom. Of course, the imperfections of this procedure are all too evident but there is no wisdom in abandoning democratic procedure altogether on an issue like capital punishment.

Last, reinstating capital punishment would impede the fight against serious crime.

The calm, calculating and rational criminal is deterred from committing crimes in part by the punishment he expects, but mostly by the prospect of detection and capture. Reinstating the practice of hanging criminals will do nothing whatsoever to improve the detection and capture of law breakers.

Unfortunately the pro-hanging lobby has done such a good job of convincing people that the solution to the crime problem is capital punishment that, if they succeed, I suspect it will take even more time to tackle the real problem which is inefficient policing.

Further to this is the problem of a failing judicial system. Reinstating hanging will only add to the load already on the system because a prisoner sentenced to death must have recourse to an elaborate and costly system of appeals

We would be worse off if capital punishment were reinstated. There is no evidence in fact or reason to suppose the crime rate would be lowered. The problem of low detection rates would not be tackled

The judicial system would be further burdened and democratic values on which our society stands would be undermined by a referendum.

■ Dr Paul Voice is a senior lecturer in the department of philosophy at Unisa

“... and some are hanged by mistake”

Goosen quits 'untenable' position

(252) Star 20/10/97

Truth and Reconciliation Commission chief executive officer Dr Biki Mnyuku this morning met national investigations director Glenn Goosen in a bid to get him to rescind his resignation from the truth body

Goosen resigned after personal differences with investigations head, commissioner Dumisa Ntsebeza TRC deputy chairman Dr Alex Boraine said yesterday that Goosen had handed in his letter of resignation last Friday.

Goosen is best remembered for what the NP described as his "aggressive" questioning of its then leader FW de Klerk during the party's submission

to the TRC earlier this year. The incident led to the NP's threatening to take legal action against the TRC, but it has since dropped the threat

"Glenn feels that he wants to leave now because the situation he has been working in has become untenable," Boraine said.

"There is no doubt that the two of them have not found it easy to work with each other. We are trying to resolve it. If Glenn resigns it will obviously not be easy to resolve."

Boraine said "very real" differences had emerged within the TRC over the planned restructuring of the investi-

gative unit

This debate is taking place as the commission prepares to enter the final phase of its mandate finalising the thousands of remaining amnesty applications and writing the final report. Boraine said he and TRC chairman Archbishop Desmond Tutu had met Goosen to try to persuade him to stay on.

"(We) suggested that he ought to weigh it up but he decided he wanted to hand it (his resignation) in," Boraine said

"I would be very sad if indeed it were confirmed. He has a number of skills, and it would leave a hole." - Sapa

Legal system 'helped create conditions' for abuse

Wyndham Hartley

CAPE TOWN — Five of SA's top judges have effectively endorsed this month's truth commission special hearing in a joint statement that the legal system under apartheid helped create conditions under which human rights abuses were committed.

Former chief justice Michael Corbett, Constitutional Court President Arthur Chaskalson, Chief Justice Ismail Mahomed, Deputy Chief Justice Henne van Heerden and the deputy president of the Constitutional Court Pius Langa made the submission to the

commission in the wake of considerable debate on whether judges should respond to the hearings and if making submissions was a good idea.

The five said it was necessary to understand the shortcomings of the legal system in the past and for this reason the truth commission's exercise was important for the future administration of justice in SA.

"Apartheid was defined by law and enforced by law. It is necessary therefore to acknowledge the role of the legal system in upholding and maintaining apartheid, and the injustices associated with it. There can be no half measures about this. Apartheid caused

poverty, degradation and suffering on a massive scale. Apartheid in itself and in the way it was implemented constituted a gross abuse of human rights," the judges' submission says.

The submission says that because racism was enforced through the courts and the law, it should be of little surprise that the police and the administration of justice lost legitimacy in the eyes of most South Africans.

Under the law of the day, criminal trials did not meet the minimum standards of a fair trial in democratic countries. Detention without trial and repressive laws designed to curtail political dissent were greeted "with only

mutated protest from some of the judges and members of the legal profession.

Political views of judges appointed during the apartheid years were taken into account. Appointments to the bench who opposed the government were a minority who did not get security matters to handle.

The oath taken by judges to treat all alike was not possible under apartheid and this was rarely acknowledged by the judiciary, the five said.

They also said, however, that it has to be accepted that on occasion justice was done and seen to be done and in this way values central to the rule of law were not entirely lost.

ED 20110197 (252)

"I DIDN'T WANT TO RE-EXPERIENCE ... THE PAIN"

Benzién torture victim tells his story

(252) ET 21/10/97

POLICE CONSISTENTLY tortured suspects and lied to the courts about doing so, a senior police officer told the amnesty committee yesterday **ANDRE KOOPMAN** reports

A FORMER MK guerrilla broke down yesterday as he related the brutalities he endured during interrogation by self-confessed torturer Captain Jeff Benzién

Mr Nicklo Pedro was giving evidence before a Truth and Reconciliation Commission's amnesty committee hearing of Benzién's application

Benzién is seeking amnesty for his involvement in the killing of MK guerrilla Mr Ashley Kriel and the torture and assault of Mr Ashley Forbes and his terrorism trial co-accused, Mr Tony Yengeni

Pedro said he had been arrested in August 1987 while trying to leave the country. He was later convicted of terrorism and sentenced to 24 years in prison

Before trying to leave the country, he had been given a letter naming contact people in Lesotho. After his arrest he was brought to Cape Town and was interrogated by Benzién and a Warrant Officer Nortje

He was stripped naked and handcuffed to burglar bars so he could barely stand, Pedro said

He had destroyed the letter but "regretfully" had told Benzién he had swallowed it

Benzién had forced him to defecate and had put on surgical gloves and pushed his finger up his rectum in an attempt to expel the letter, he said

Pedro broke down as he



GLUM: Jeff Benzién

described how Benzién had pushed a broomstick up his rectum

He remained tearful as he told of his continued torture

"I was physically beaten by both Nortje and Benzién. More by Benzién. He instilled fear in me"

Some of his co-accused at his terrorism trial, who were in the room, also had tears in their eyes

Benzién looked glum

After his evidence in chief, Pedro was questioned aggressively by Benzién's counsel, Mr Gustav Cook, who said he had been told about the broom incident at a pre-trial conference with Pedro's attorney "Today you come here and talk about surgical gloves"

He put it to Pedro that he had not been undressed by Benzién but had undressed himself

"The point is that I had been

pressured to undress," Pedro said

He said angrily that he had already been tried and cross-examined "It wasn't easy to come and talk here. I didn't want to re-experience the pain."

He had been reluctant to come forward and speak of his being tortured as he had not wanted to upset his parents, Pedro said

"If I feel I am being interrogated here, I won't answer questions"

Addressing Cook, Mr Justice Hassen Mall said "Are you going to say he wasn't tortured by Benzién?"

Cook was raising side-issues that would not take the matter further, Judge Mall said

Earlier, Major-General J L Griebenaau, who had been regional commander of the security branch in Cape Town, said security policemen had systematically tortured people and systematically lied to the courts about doing so

Questioned by Mr Michael Donen, counsel for Yengeni and Forbes, Griebenaau said former state president Mr F W de Klerk and then-Minister of Law and Order Mr Adriaan Vlok "must" have known about the torture

Asked what he understood by the term "eliminate", used in reference to freedom fighters and enemies of the former government, he said "Where it referred to armed enemies of the state, quite simply it meant 'kill him'."

He said he was at the hearing as he had insight into Benzién and his superior, Superintendent William Liebenberg's circumstances and wished to give perspective

The hearing continues today

Goosen 'race row' denied

OWN CORRESPONDENT

JOHANNESBURG: The Truth and Reconciliation Commission has accepted the resignation of its top investigator, Mr Glen Goosen, but has denied reports that racial friction led to his departure.

Goosen's resignation was confirmed yesterday after senior members of the commission, including chairman Archbishop Desmond Tutu, failed to persuade him to stay on.

Goosen, the TRC's national director of investigations, has clashed head-on with commissioner Mr Dumisa Ntsebeza, who oversees the investigative unit. His departure is certain to affect efforts by the TRC to complete its massive workload by July next year, when it has to table its report in Parliament. The amnesty committee, especially, will come under strain.

A report at the weekend said Goosen had accused Ntsebeza of "racist attitudes" which had surfaced during his questioning of witnesses during the hearings into the role of armed forces and the State Security Council during apartheid.

But Tutu strongly denied this yesterday. "No such accusation was made by Mr Goosen to Mr Ntsebeza or anyone else," he said.

TRC chief executive Mr Biki Minyuku said Goosen's resignation would leave "a substantial gap" in the commission's remaining investigations. He said it was "triggered by disagreements over the reorganisation of the TRC's investigative unit which emerged last week".

(252) ET 21/10/97

Bill aims to put an end to dual citizenship

Cape Town — Home Affairs Minister Mangosuthu Buthelezi yesterday piloted through the National Assembly legislation that will prevent South Africans from holding dual citizenship.

He also tabled a bill that will allow women to variously adopt double-barrelled names, to include both her married or maiden names, her maiden name even if she is married, or resume her maiden name or a combination of various married and maiden names.

Both measures were accepted by all seven parties. The South Afri-

can Citizenship Amendment Bill and the Births and Deaths Registration Amendment Bill are expected to be passed into law by the end of the current session.

The citizenship bill also provides that a child — whether born in or out of wedlock — may become a citizen of SA if he or she is born outside SA "as long as one of his or her parents was a South African citizen at the time of the birth".

Buthelezi said permission was still being granted on application to carry two passports. — Parliamentary Bureau

21/10/97

252

~~252~~

Security police admit using 'wet bag' torture

(252)

Liebenberg tells amnesty committee he and Benzien were the 'bad cops' in interrogations, while others were 'good cops'

OWN CORRESPONDENT

Cape Town - William Liebenberg, boss of self-acknowledged torture expert Jeffrey Benzien, told the TRC that he helped torture an Umkhonto we Sizwe cadre with a "wet bag". He also condoned the torture of others.

Liebenberg, who retired with the rank of superintendent days after submitting an amnesty application, also told the commission he and then-warrant officer Benzien played the role of "bad cops" during interrogations, while others in his team were the "good cops".

Liebenberg, who headed the anti-terrorist unit of the Western Cape branch of the security police from 1986 to 1990, acknowledged assaulting captured MK cadres by slapping them repeatedly in the face and

committing perjury by lying in court to protect policemen accused of torture and assault. He is applying for amnesty.

Liebenberg apologised for his actions, although he asked for understanding of the circumstances of the time.

Tortured cadre made out to be a traitor

Former cadre Nicklo Pedro broke down when he re-lived being tortured by Benzien and - even worse - being paraded before fellow MK cadres as a traitor.

Testifying yesterday during the resumption of Benzien's

Truth Commission amnesty application, Pedro said. "He (Benzien) instilled a fear in me, yes. He can speak to you very nicely and can come across as the world's friendliest person and in a second he can change and behave like an animal. That's how I experienced him."

Benzien is applying for amnesty for assaulting and torturing MK detainees, and various incidents which he claims he can not remember.

Pedro said when he acknowledged swallowing a letter for a contact, Benzien forced him to defecate.

He put on rubber gloves and pushed his fingers up his anus. When this did not produce the letter, he inserted a broomstick into his anus.

"As far as I can remember, not much came out of my stomach," Pedro said.

Tutu denies Goosen resigned over racism

BY ROBERT BRAND

The Truth and Reconciliation Commission has accepted the resignation of its top investigator, Glen Goosen, but has denied reports that racial friction led to his departure.

Goosen's resignation was confirmed yesterday after senior members of the commission, including chairman Archbishop Desmond Tutu, failed to persuade him to stay on.

Goosen, the TRC's national director of investigations, has

clashed head-on with commissioner Dumisa Ntsebeza, who oversees the investigative unit.

His departure is certain to affect efforts by the TRC to complete its massive workload by July next year, when it has to table its report in Parliament. The amnesty committee, especially, will come under strain.

A report at the weekend said Goosen had accused Ntsebeza of "racist attitudes" which had surfaced during his questioning of witnesses during the hearings into the role of armed

forces and the State Security Council during apartheid.

But Tutu strongly denied this yesterday.

"Mr Goosen repudiates the suggestion that he believes this, and we are convinced that he does not," Tutu said.

TRC chief executive Biko Minyuku confirmed Goosen's resignation.

He said it "was triggered by disagreements over the re-organisation of the TRC's investigative unit which emerged last week".

Tutu outraged by report of two colleagues' racial row

Stephen Laufer (252)

TRUTH commission chairman Archbishop Desmond Tutu said yesterday he was "outraged" at suggestions that national investigations director Glenn Goosen had resigned after an altercation with racial overtones that he reportedly had with commission investigations unit head Dumisa Ntsebeza.

Goosen had repudiated reports in Sunday's City Press suggesting he had accused Ntsebeza and the commission of racism.

Differences had arisen over the restructuring of the investigative unit, but Goosen had neither made the accusation, nor did he believe that race had been an issue. Goosen denied having spoken to City Press.

Sources said yesterday that personal differences between Goosen and Ntsebeza had come to a head last week within the context of conflicting priorities for the remaining months of the commission's work.

Goosen is understood to have been implementing a rationalisation of the

truth body's investigative capacity decided by the commission. Most commission units have begun shedding staff in anticipation of the end of the body's mandate next year.

Because it envisaged using remaining staff members only for the corroboration of 14 000 victims' statements and in conjunction with the work of the amnesty committee, Ntsebeza felt it would leave him without the capacity to respond to late-breaking issues requiring further investigation.

Goosen and Ntsebeza are understood to have traded strongly worded memos. In a memo written early last week, Ntsebeza is understood to have questioned Goosen's motives.

Nobody connected with the truth commission was prepared yesterday to discuss the form or content of the questions about Goosen's motives referred to by Ntsebeza.

Commission CE Biki Mnyuku said Goosen, who had two months of his contract left, had not withdrawn his resignation despite mediation efforts by Tutu and his deputy Alex Borane

Commission hears that torturer hates himself

(252) BD 21/10/97

CAPE TOWN — Self-confessed police torturer Capt Jeff Benzien suffers from self-loathing and post-traumatic stress disorder as a result of his interrogation of anti-apartheid activists in the 1980s, according to a psychologist's report.

Benzien is seeking amnesty for the death of Umkhonto weSizwe guerrilla Ashley Kriel and the torture of ANC activists, including MP Tony Yengeni.

His appearance before the truth commission's amnesty committee in July made headlines after he demonstrated the "wet bag" torture method.

In a report handed to the committee, Cape Town psychologist Ria Kotze said that Benzien had expressed self-loathing and remorse and told her he wished he had never been involved in the interrogation of detainees.

"He was torn by his belief that he was saving the lives of the public by obtaining such information and that he was dealing with dangerous terrorists on the one hand, and the disgust that he felt in the measures he had to take in the fulfilment of this task," she said.

In February this year this emotional turmoil had come to a boiling point, triggering a mental breakdown. One of the physical manifestations of this breakdown was auditory hallucinations — Sapa.

Forgiveness 'not an entitlement'

ZUBEIDA JAFFER
GROUP PARLIAMENTARY EDITOR

ARCHBISHOP Desmond Tutu has made an impassioned plea for white South Africans who continue to oppose the new dispensation to "come eagerly, come enthusiastically" to join the process of reconciliation.

The TRC chairperson told the Cape Town Press Club yesterday that many were taking it for granted that they were entitled to the forgiveness that victims were readily displaying. He called on them to use their influence in their communities to persuade their friends to embrace the new dispensation.

"If this commission fails, you may not be around to describe it," he told press club members and guests.

Nearly four years after the democratic election, he said, blacks were still getting up from their shanty informal settlements. "They go to work for white people in affluent suburbs and

at night they return to the squalor of their homes, their unlit streets, no running water, no clinics, no schools, no decent homes

"They don't say, 'to hell with it' — and go on the rampage in the largely white pockets of comfort and affluence. And all some whites do is moan about this and that — really about their loss of power," he said.

He called on those who chose to deride the TRC process to wield their influence in their communities and persuade their friends to embrace the new dispensation enthusiastically.

"Apartheid was intrinsically evil, immoral and unchristian," he said. "This is not a bias — it is stating a fact

now endorsed by the top legal people in our country."

South Africa was a blessed country, he said. It could so easily have gone the way of Angola, the Sudan, Bosnia, Northern Ireland, Sri Lanka or the Middle East, which had all found peace so devastatingly elusive.

"We have been fortunate that Mr F W de Klerk was so brave in 1990 and that he had to deal with the extraordinary Madiba, so magnanimous, so forgiving," he said.

In hushed tones, he asked God: "Please give me the eloquence

to persuade my white compatriots." He was convinced South Africans would succeed because "we are such an unlikely bunch"



PLEA: Desmond Tutu
(252)

CT 22/10/97

Benzien (252) 'suffering from stress'

ET 22/10/97
SELF-CONFESSED police torturer Captain Jeff Benzien's apprehension about appearing before the Truth and Reconciliation Commission (TRC) may have triggered his mental breakdown, the TRC's amnesty committee heard yesterday

Cape Town psychologist Ms Ria Kotze said she had diagnosed Benzien as suffering from post-traumatic stress disorder (PTSD) as a result of his torture of political detainees in the 1980s

"He has blocked out many memories because of the traumatic nature of these incidents," Kotze testified in Cape Town

"Mr Benzien is not being intentionally vague about detail regarding his work in the security branch. I am convinced that his weak memory is due to PTSD and major depression," Kotze said

Benzien is seeking amnesty for the death of uMkhonto weSizwe guerrilla Ashley Kriel and the torture of prominent ANC activists

Mr Michael Donen, a lawyer for Benzien's victims, challenged Kotze's diagnosis yesterday

Donen said his understanding of post-traumatic stress disorder was that victims, and not perpetrators, of human rights violations suffered from the disorder

He suggested the real cause of Benzien's claimed memory loss was his fear of being held accountable by the TRC for his past actions

Kotze said "He was a victim of circumstances due to his work environment. He was a victim of the system. I don't think he enjoyed what he was doing

"These hearings compounded his stress. It was the last straw that broke the camel's back, but it was not the sole reason for his stress"

Donen said he would argue that Benzien was covering up for colleagues who also took part in the torture, and that he had not made a full disclosure — Sapa



SERIOUS TALK: Jeff Benzien and his psychologist Ria Kotze, who testified at his TRC hearing yesterday.

PICTURE: BENNY GOOL

Wet-bag' broke MK

Cadres, cop tells TRC

By Ido Lekota
Political Reporter

HE feared "wet bag" method of torture was the most effective way of extracting information from Umkhonto we Sizwe cadres, the Truth and Reconciliation Commission was told in Cape Town yesterday.

Giving evidence to support his application for amnesty, former head of the Western Cape investigation unit Captain Rudolf Liebenberg said "suspects always cracked" under this form of torture.

A wet black bag was pulled over a suspect's head to induce suffocation. The method was, according to Liebenberg, invented by self-confessed torturer Captain Jeff Benzen, whom he described as the "best exponent of unconventional methods of extracting information from suspects".

Liebenberg told the hearing that although he was commander of the unit, he let Benzen have his way with detainees. He denied, however, being aware of incidents where electric shocks were used as a form of torture.

Never interfered

When asked by defence counsel for former MK operatives, Mr Michael Donan, about an incident where Benzen allegedly shocked former MK operative Ashley Kriel in the anus, Liebenberg said he only heard screams while he was in his office.

He never went to investigate because he "never interfered when Benzen conducted his interrogations".

Liebenberg is seeking amnesty for the torture of former MK operatives Mr Tony Yengeni (now African National Congress MP), Mr Peter Jacobs, Ashley Forbes and Mr Gary Kruser.

Earlier yesterday the TRC heard evidence that Benzen could have lied



Self-confessed police torturer Jeffrey Benzen (left) with lawyer Gustav Cook at the TRC hearing in Cape Town yesterday. PIC: LEON MULLER

to the amnesty committee to support his amnesty application.

This emerged after Ms Ria Koize, a psychologist testifying on behalf of Benzen, admitted that the security policeman could have "coloured certain incidents in his favour".

Donan had asked Koize why, although Benzen claimed that he suf-

fered from loss of memory, he emphatically denied that he pushed a broomstick up the anus of another former MK operative, Nicklo Pedro.

On Monday, a tearful Pedro told the TRC how Benzen pushed a broomstick into his anus in an attempt to extract a piece of paper that Pedro had claimed he had swallowed.

Koize told the TRC that Benzen was suffering from post traumatic stress which led to loss of memory.

The psychologist caused an uproar in the hall when she told the hearing that Benzen was a "victim of the system which expected him to do a job he disliked".

In contrast, Donan pointed out that Benzen was highly regarded among his colleagues and he even received an award for the excellent job he did in cracking "terrorist cases".

Benzen is seeking amnesty for the murder of Western Cape United Democratic Front activist Kriel and the torture of four other former MK operatives.

Apartheid legal system probe

(252) Sowetan 22/10/97

By Simon Zwane
Political Reporter

THE South African legal system under apartheid will come under scrutiny at a special three-day Truth and Reconciliation Commission hearing in Johannesburg next week.

The hearing which starts on Monday will seek to understand the role the legal system played in contributing to the violation or protection of human rights. It will also identify institutional changes required to prevent the same abuses from happening again.

It will not, the TRC said, try to establish individual responsibility for human rights violations.

The commission has already received submissions from several High Court and Constitutional Court judges, including the present and former Chief Justices, Judges Ismael Mahomed and Michael Corbett, the Deputy Chief Justice, Judge HJO van Heerden, and the President and Deputy President of the Constitutional Court, Judges Arthur Chaskalson and Pius Langa.

Bloemfontein judges are reported to have responded well to the hearing and about 20 written submissions are expected this week. It is not clear whether any judges will give oral evidence.

The hearing will examine the role of lay assessors, interpreters, the justice department, state law advisers, public prosecutors and the justice minister during apartheid.

It will also scrutinise the selection and appointment of magistrates, judges and attorneys general.

The treatment of detainees, political trials, failure to prosecute, as well as racial, gender and political discrimination will also be examined.

● Former Umkhonto we Sizwe soldiers Mr Lawrence Mbatha and Mr Walter Smiles will reappear before the TRC's amnesty committee next week for the 1993 Kimberley bombing which killed Ezekiel Mokone.

Mbatha and Smiles, who are now members of the South African National Defence Force, were not arrested for the incident.

Judging apartheid-era judges

Star 22/10/99

Judiciary was more concerned with technicalities than human rights, TRC is told

Human rights abuses flourished in apartheid South Africa because the judiciary was more concerned with the technicalities of the law than abuse of power by the government, the General Council of the Bar has said in a submission to the Truth and Reconciliation Commission.

The council, a federal body representing advocates, says in its 212-page submission that judges could have done more to curb human rights violations, but the majority of the Bench were too conservative and cautious to take a stand.

"We do not subscribe to the view that judges were powerless in the face of the doctrine of parliamentary sovereignty. Our courts failed to impose rigorous standards on officialdom, particularly in the field of legislation involving race and security," the submission states

The submission will be presented during a special hearing next week on the role of South Africa's legal system in allowing or preventing human rights violations during the apartheid era

The submission provides numerous examples of the bar council's opposition to the National Party government's steady erosion of the rule of law, although it acknowledges that it could have done more to combat racism in its own ranks

It has harsher words, however, for the judiciary. Magistrates, the submission states, were civil servants with



By Robert Brand

"a seeming lack of independence and the all-pervasive civil service mentality", while many judges displayed "excessive judicial caution and a reluctance to venture along new jurisprudential paths"

Although judges could not nullify unjust laws, they had the power to challenge unjust administrative actions or abuse of power by government officials.

The apartheid policy was implemented by way of general laws vesting "enormous powers of regulation" in ministers and "broad discretionary administrative powers" in public servants. These were within the reach of the courts, the submission says.

"The question that this raises is why South African courts were slow to respond to the blatant abuse of administrative power which characterised the apartheid era."

(252)
The answer, the submission says, lies in the "excessive caution" of the judiciary and "an attitude among many judges .. that there was a serious threat to the security of the state and this justified extreme measures .."

"We think that too few judges were sensitive, and by this we mean publicly and openly sensitive to the injustices and abuses of human rights which apartheid generated

"The perception of the judicial role was excessively mechanical and its avoidance of controversy extreme

"Combined in many instances with innate conservatism or even general support for the policies of the day, the result was a judiciary which exhibited greater concern for the technicalities of law than for issues of human rights," the submission says

Winnie 'did not support death penalty call'

Bonnie Ngqiyaza

THE African National Congress (ANC) has accused the media of trying to "project a schism within the organisation" by reporting comments ascribed to ANC Women's League president Winnie Madikizela-Mandela, on the reinstatement of capital punishment.

At a media briefing in Johannesburg yesterday, ANC spokesman Ronnie Mamoepa said the party's national working committee had noted that Madikizela-Mandela had not called for a referendum on the issue or expressed support for a reinstatement of the death penalty.

The Sunday Times reported at the weekend that Madikizela-Mandela had made the utterances at a recent internal ANC policy workshop in Midrand.

The committee agreed that Comrade Winnie's input at the conference had been well within the bounds of the open and vigorous debate which is characteristic of such forums, Mamoepa said.

The committee had reaffirmed the organisation's position on the death penalty as being that it was contrary to the basic human rights enshrined in the constitution, and would therefore not support calls for its reinstatement.

On preparations for the ANC's national conference in December, Mamoepa said the committee had adopted the process for submission of nominations to the ANC national executive committee. Nominations opened on November 3 and closed on December 1.

'White survival depends on reconciliation'

CAPE TOWN—The survival of whites in SA depended on their joining the process of healing and reconciliation, truth commission chairman Desmond Tutu said yesterday.

Black people who, four years after the election of a new democratic government, still lived in squalor without running water, clinics, schools and decent homes, could easily have become disgruntled, he told the Cape Town Press Club. However, they did not say "to hell with it" and go on a rampage in the largely white pockets of affluence.

He said the commission's detractors had done nothing to contribute to reconciliation but had spent their time bemoaning the passing of the old dispensation when they were the top dogs.

Tutu said the four former National Party cabinet ministers who testified at the commission's state security council hearing last week had admitted they could not say they had not known about apartheid-era atrocities.

As this was a great deal more than anyone had said so far and they had not watered down their apology with qualifications, they deserved to be commended. —Sapa.

CAPE TOWN

PD 22/10/84

Winnie 'did not support death penalty call' (252)

Bonile Ngqiyaza

THE African National Congress (ANC) has accused the media of trying to "project a schism within the organisation" by reporting comments ascribed to ANC Women's League president Winnie Madikizela-Mandela, on the reinstatement of capital punishment.

At a media briefing in Johannesburg yesterday, ANC spokesman Ronnie Mamoepa said the party's national working committee had noted that Madikizela-

Mandela had not called for a referendum on the issue or expressed support for a reinstatement of the death penalty

The Sunday Times reported at the weekend that Madikizela-Mandela had made the utterances at a recent internal ANC policy workshop in Midrand.

"The (committee) agreed that Comrade Winnie's input at the conference had been well within the bounds of the open and vigorous debate which is characteristic of such forums", Mamoepa said.

The committee had reaffirmed the organisation's position on the death penalty as being that it was contrary to the basic human rights enshrined in the constitution, and would therefore not support calls for its reinstatement

On preparations for the ANC's national conference in December, Mamoepa said the committee had adopted the process for submission of nominations to the ANC national executive committee. Nominations opened on November 3 and closed on December 1

BD 22/10/97

TRC report, academics and history

(252) CT 23/10/97

IT HAS often been said that the Truth and Reconciliation Commission has been asked to perform a set of self-contradictory tasks simultaneously. It must allow victims the freedom to tell their own story as they wish but also establish the truth. It must promote reconciliation on the basis of granting amnesty after perpetrators publicly recounted the most gruesome tales of torture and murder. Now we hear that the commission sees the need to write a report "which provides the basis for a new and inclusive memory" despite the fact that it has been gathering evidence in a way that, at best, can be described as highly selective.

The TRC's director of research and my colleague at the University of Cape Town, Professor Charles Villa-Vicencio, has thought it fit to accuse me of "paranoia" and "mischief" in criticising Commissioner Richard Lyster's proposal that the TRC write a "publicly sanctioned history" that can be taught in schools. I would have thought that Villa-Vicencio's squabble should not be with me, but with Lyster.

As an academic with a reputation to protect he should have told Lyster that his proposal puts the TRC's research department in an invidious position if it was expected to produce a report that would have some academic merit or standing. I know of few academics who believe a commission in any democracy can see for itself the task of producing a text that must be taught in schools as the "publicly sanctioned" version.

Villa-Vicencio asserts that I have refused to assist the commission in drafting the chapter on the historical context of their



work. This statement, however, deals with the truth a bit economically. I was asked by my colleague to testify in general, but declined on the grounds that I was at that stage president of the SA Institute of Race Relations, which was still considering its options about testifying.

I have heard that some historians were convened for a meeting to give the commission advice on dealing with the historic context. Apparently nothing substantial was achieved. Insiders revealed that the writing of the report was a matter of intense debate in the commission. Perhaps the essential question to be faced was whether the commission would want to write a political report without concern for its academic standing or whether it would attempt to produce a report that would attain a high academic

standing while also admirably achieving its political purpose (as the Chilean Truth Commission managed to do).

Let me suggest three academic criteria by which the report will be judged. First, has the commission been comprehensive in its gathering of evidence? There certainly seems to be big problems in this regard. The commission has concentrated, at a ratio of 22-2, on acts committed by officials of the old regime. To date we know very little more of crucial events of the 1980s, such as the Church Street bomb in Pretoria and the Ellis Park bomb intended to detonate just as the crowd left the stadium. The latter event is of particular interest to me since Joe Slovo, in 1988, told me he considered it a "criminal" act from which he disassociated himself.

The commission has subpoenaed several cabinet ministers and generals to give evidence under Article 204 but, as far as we know, no ANC leader has yet been asked to do the same. At this very late stage of the game most ANC leaders have only accepted collective responsibility, something which is not allowed under the Act. Historians examining the evidence-gathering methods of the TRC would certainly have some tough criticisms if the commission did not quickly begin to subpoena ANC leaders individually to find out more about events such as the Ellis Park bomb.

The second question historians will ask about the TRC report will be whether the events have been placed in a proper context. From Villa-Vicencio's article I get the impression that the "crimes against humanity" angle will be heavily stressed. He quotes Pro-



MAKING HISTORY: The TRC would like to have a report written for history education.

fessor Denys Schreiner, a man I greatly respect, who considers it a crime against humanity when a people on account of their birth are condemned to suffering and violence. This constitutes such a broad defini-

tion that it can take in the entire history of racial segregation in South Africa since, say, 1809, the full range of segregation in the USA and the whole history of Western colonialism. The commission will have to give good reasons why it thinks apartheid was such a special crime against humanity.

The commission could try to take the route of the *Reconciliation through Truth* of Kader Asmal and co-authors and put heavy emphasis on the UN Convention on Apartheid as a crime against humanity but, to meet academic standards, it would certainly have to state that the leading role in proposing the convention was taken by some of the most vicious tyrannies in the world and that none of the major Western nations ratified it. Finally, the commission would do well to engage in a bit of counter-factual history.

What alternative courses were open to the main protagonists in the early 1960s and why were they not taken? It was certainly not inevitable for the state to have had recourse to such draconian security measures without any proper supervision of the men on the ground.

And was it really true that the ANC in the early 1960s had no alternative but to turn to the armed struggle? Ken Owen, in a powerful article in the recent issue of *Leadership*, argues that there were non-violent options.

The commission still has several months to finalise its report. It needs to resolve some tough questions before it embarks on the writing.

□ *Hermann Gilliomae teaches politics at UCT.*

Youths want TRC to hear their story

By Sharon Chetty

STUDENTS in KwaThema sat for their exams this week, relieved that they were able to write without any major disruption

"This year I must write if any of my friends try to stop them (the exams), I will fight them," vowed Jerry Thabethe, an 18-year-old now determined to finish high school so that he can escape the poverty and hopelessness of his bleak hometown

"If I don't finish, then I am going to be an adult in front of small children," he said, anxious at the humiliation of having to repeat grade 9 again next year

Thabethe, a member of the Pan Africanist Student Organisation (Paso), is obviously tired and jaded "I must get out (of KwaThema) that is the only answer"

In the small township, he has been taunted forever by the violence "I can't walk anywhere before someone says, 'there's the one who killed so and so' I am very unhappy"

Once zealously part of the conflict between Paso and the Congress of South African Students (Cosas), he says he has now come to realise that fighting each other is fruitless

But the deal that he and other youths hope will contribute to lasting peace is still part of protracted negotiations with the Justice Department and other authorities

They would like a special amnesty or pardon for their roles in the conflict

There are currently at least 30 youths from both sides who have been convicted of murder, attempted murder and possession of illegal weapons and are serving jail sentences Another 18 are awaiting trial on similar charges and a further 19 are wanted by the police

The youths maintain that most of the deeds were conducted with political intent and would like a special sitting of the Truth and Reconciliation

Commission (TRC) "for the full story to be heard"

They also say that those who pulled the trigger should not be the only ones to pay a price, the suppliers of the bullets must also share responsibility

"The full truth must come out that is the only way," maintains Martin Mzane, a Cosas leader

Both he and Thabethe say it is unfair that the youths alone should carry the burden of the past 11 years of conflict when a lot of them were not actively involved in politics until recently

"There are adults who are providing the guns and encouraging the youth, they too must be exposed," said Martin

Scathing

They are also scathing about the lack of assistance and leadership from adults in the community, saying the youths have been left alone to "carry the burden" of first defending the community and now of picking up the pieces

"When we are dying, parents in this township didn't have a mass meeting to talk about it Now when the electricity gets cut they protest Electricity is more important than their children," said Thabethe, referring to a recent protest rally

The youths also agree that the violence is usually a cycle of vengeance Over the past few years the pattern has been the same a youth is killed, and "the other side" is automatically blamed

His friends then avenge the murder, leading to a whole new cycle of killings

When the police investigate and try to get state witnesses, then they want to "wipe away the evidence" and another round of killings start because it has "become a habit to assassinate witnesses", said Mzane

Since the February moratorium, there have been fewer killings, but the situation is complicated by routine



Paso member Jerry Thabethe is tired of the violence. PIC SHARON CHETTY



Cosas leader Martin Mzane says the full truth must come out for there to be peace. PIC MANDLA YENDE

police investigations

So far the youths have maintained a fragile peace among themselves, but when they are called on to make statements or testify against each other, it leads to renewed tensions

The gist of the youths' request is that their cases (except for those of rape) be reviewed and not be treated as run-of-the-mill criminal cases

If they do not have the threat of prosecution hanging over them, they will hand over their guns, be able to study and work towards keeping the peace

They want to depolitise the schools and ensure that their own reconstruction and development programme happens Those already serving sentences should be made to do community service

"If the situation is not addressed urgently, then the violence can happen again one day there will be no one left, only our ghosts Then what would we have fought for?" asks a bitter

Mzane

Thabethe maintains that merely signing another peace agreement on paper is useless "It must come from our hearts, and now our hearts are still heavy"

Despite the gloom, there are still pockets of hope, said Margaret Webber, the district director of education in the area

She has been closely involved in brokering the peace since her first day of work in June 1995

Last year only a fraction of the students wrote exams under armed guard and the pass rate was dismal

This year, both Cosas and Paso have pledged not to disrupt the schools and she has full confidence that they will keep their word

Webber says that from listening to the evidence at the Van der Spuy Commission, she has come to the conclusion that the disruption of schooling is a manifestation of a deeper problem "I got the impression that students

were being used by adults to settle grudges" She also believes the only solution would be a process that allows the youth to "tell all"

"Until the truth is on the table and the process reaches its logical conclusion, there will be no peace"

She also cautioned against dismissing the youths' request "Many of them are extremely competent and capable, and at the same time very traumatised "Just from listening to them, I think they understand the need to take responsibility for criminal acts At the same time they want to get on with their futures"

Isaac Makgabutane, a member of the South African National Civics Organisation and deputy chairperson of the schools' governing body council, said parents tried their best to give youth direction, but they did not succeed

A former councillor in the local authority, Makgabutane also said that a special "amnesty TRC hearing" is needed to get to the truth

252 Southeran 23/10/97

ER youths want blanket amnesty

Sowetan 23/10/97 (252)

By Sharon Chetty

NEGOTIATIONS are under way to work out a special deal for KwaThema, Springs youth who have committed politically-motivated misdemeanours

The youth in the conflict-ridden East Rand township demanded blanket amnesty and an end to arrests. They want a special hearing before the Truth and Reconciliation Commission to focus on their grievances. They also disrupted classes to draw attention to their demands.

At least 30 members of the Congress of SA Students and Pan Africanist Students Organisation are serving jail terms for murder, attempted murder and possession of illegal weapons. Eighteen are awaiting trial on similar charges and 19 more are wanted by the police.

They believe that a halt on prosecu-

tions would ease the internecine conflict and contribute to a lasting peace in the area. More than 40 youths have died since 1995.

Now the offices of the Gauteng MEC for safety and security, department of justice and attorney general are looking at ways of trying to resolve the tensions.

Although nothing concrete has come of the talks, they will have to find means of separating politically motivated acts from criminality.

The possibilities of presidential pardons for those convicted and "exchanges" through which youths who fully disclose the source of their weapons and reveal who gave them the orders to kill, may go free, are also being discussed. At the same time they want to avoid creating loopholes for criminals to go free.

● See page 13

Amnesty-seeker tells why ANC had to arm SDUs

Star 23/10/97 (252)

Former gun-runner and Umkhonto we Sizwe member Riaz Saloojee (34), who has been granted amnesty by the Truth and Reconciliation Commission, says the ANC was forced to supply arms to self-defence units in order to "weaken the

well as ANC military intelligence structures within the security forces, that violence was being orchestrated by the IFP and groups within the police and the former defence force

"We were told of deliberate plans to take over townships, eliminate ANC leaders and disrupt the organisation of progressive forces such as Cosatu, the civic organisations and the ANC and its allies," Saloojee says

The manner in which a section of Alexandra and its two men's hostels (Nobuhle and Madala) were taken over in 1992, and then used as a base for attacks on the township over the next two years, was typical of what happened in many townships in the old Transvaal and Natal, he adds

"The ANC believed that the plan of the National Party, third force, right wing and IFP was to destabilise South Africa to such an extent as to wreck

the negotiations process and make it impossible to hold an election in a climate of peace, an election that could be declared free and fair"

He says the leadership, including Ronnie Kasrils and Aboobaker Ismail, decided to

'Units had to defend townships against attacks'

ability of the security forces and the Inkatha Freedom Party to attack people".

Saloojee, now a colonel in the SA National Defence Force, says in his amnesty application that ANC leaders received reports from members and supporters living in townships, as

Wary of plans to destabilise SA before elections

organise self-defence units

The units were intended to function with the capacity to defend areas from attacks and to launch pre-emptive operations that would weaken the ability of the security forces and the IFP to attack people. - Staff Reporter

TRC plan to pay apartheid victims R3-bn

Star 23/10/97 (252)

Proposal to give up to R23 000 a year – for six years – to the 22 000 expected to qualify for grants

By ROBERT BRAND

The Truth and Reconciliation Commission (TRC) has unveiled an ambitious plan to compensate victims of gross violations of human rights with annual payments of up to R23 023 for six years.

The proposal, which will cost an estimated R3-billion, will be submitted to the Government for approval when the TRC tables its final report in Parliament in July next year.

The plan was developed by the TRC's reparations and rehabilitation committee after an extensive consultative process involving government, victims' groups, NGOs and academic institutions.

It provides for urgent interim relief to people in immediate need of assistance, which the commission is empowered to give, and for a long-term plan of reparation and rehabilitation which will be the responsibility of government.

The long-term plan includes

financial grants to individuals and symbolic reparation such as monuments and memorials as well as community rehabilitation programmes.

Individuals identified by the commission as victims, or their relatives and dependents, will be entitled to grants ranging from R17 029 a year for six years to R23 023 a year.

The exact amount for each individual will be calculated according to a formula taking into account the number of dependents the beneficiary has and whether he or she lives in a rural or urban area.

The commission has received statements from 12 000 victims, but projects a final tally of 22 000 people who will qualify for grants.

Based on this projection, the commission says in its final reparation policy document the grants will cost the country R2,86-billion over six years or about R500-million a year.

Most of the money is expected to come from government, but the commission has

called for donations from local and international donors.

It is also investigating alternative avenues of funding, including a proposal by the Afrikaanse Handelsinstituut that part of the R9-billion South African Special Risk Insurance Agency (Sasria) be used.

The Sasria fund was established during the apartheid era to safeguard business against losses due to political violence.

Although the reparations document represents the commission's final proposal, TRC chairman Archbishop Desmond Tutu was at pains to stress yesterday that the decision on whether to implement it or not rested entirely with the Government.

"The policy proposals ... have been discussed in preliminary form with the Government.

"However, they remain proposals and will be considered fully by Parliament and the Government when the commission's final report is presented next year," he said.

Advocates' acts of bravery revealed in TRC submissions

(252) CT 24/10/97

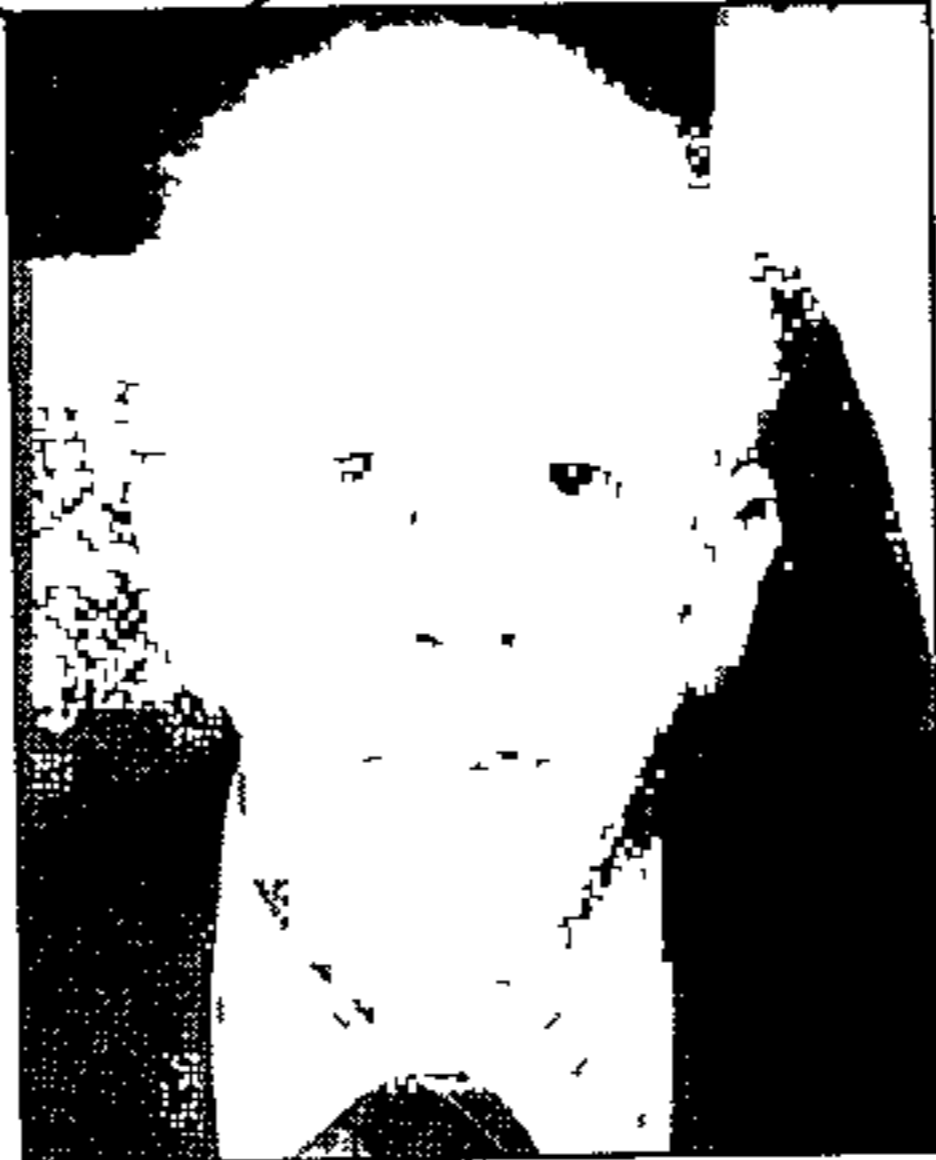
RONALD MORRIS

ACTS of bravery by advocates — some of whom went on to become internationally-respected judges — in the face of bullying ministers of justice, have been revealed in submissions by the national advocates' body, the General Council of the Bar (GCB), to the Truth and Reconciliation Commission

One example was in 1976 when the then justice minister, Mr Jimmy Kruger, attacked the Cape and Johannesburg bar councils and, personally, Mr Arthur Chaskalson SC, in Parliament

Chaskalson, then chairperson of the Johannesburg bar, is president of the Constitutional Court

On May 11, 1976, as a result of urgent decisions by the Cape and Johannesburg bar councils to oppose the Promotion of State Security Bill, Mr Gerald Friedman SC and Mr Henrie Nel SC (now Judge-President of the Cape and senior judge respectively), as members of the par-



MET KRUGER: Gerald Friedman

liamentary committee of the GCB, sought a meeting with Kruger

They informed him of the Cape Bar Council's objections to the bill but Kruger indicated that "he was not prepared to meet any of the objections raised"

They then told Kruger that the Cape Bar Council intended to issue

a press statement concerning the bill and handed Kruger a copy

The statement had been prepared before the meeting but Kruger was not told that it was the intention of the Cape Bar Council to issue it until it had become clear that he was not prepared to meet its objections

Kruger replied that if the Cape Bar Council issued a press statement he would regard the council "as having entered the political arena and he would regard himself free to attack the council in Parliament"

Friedman issued the statement after 1pm

That afternoon Kruger attacked Chaskalson in Parliament and mocked the fact that he had acted as preacher at Mr Bram Fischer's funeral and had also delivered an oration.

Kruger said by writing a letter (as chairperson of the Johannesburg Bar Council) Chaskalson had entered politics and while he did not question his bone fides, the public would

BAR COUNCIL DIFFERS FROM CONSTITUTIONAL COURT

Death penalty 'not rights violation'

THE GENERAL Council of the Bar has taken a view on the death penalty that goes against the Constitutional Court's crucial finding in 1995. RONALD MORRIS reports.

THE national advocates' body, the General Council of the Bar (GCB), has told the Truth and Reconciliation Commission it does not agree that the death penalty is a violation of human rights.

This was said by the GCB in its submissions in three volumes submitted to the TRC.

The GCB's stand goes against a watershed finding by the Constitutional Court in 1995 in the State versus Makwanyane and Another that the death penalty was unconstitutional.

Central to the court's finding is that the death penalty constitutes an unjustifiable infringement of human rights.

The council said the killing by the state of a human being could potentially fall within the definition of "gross violation of human rights".

The killing of someone was not per se a gross violation of human right. It was only such where the killing involved a violation of human rights, where it emanated from conflicts of the past or when it was advised, planned, directed, commanded or ordered by any person acting with a political motive.

The death penalty was imposed and carried out almost entirely in cases where the accused had been convicted of murder, either on its own or in conjunction with other offences such as rape or robbery with aggravating circumstances.

The turning point, however, came with the Makwanyane judgment that the death penalty was unconstitutional.

The GCB said it did not think such a conclusion was justified but added it did not challenge the correctness of the Constitutional Court's decision.

"It is merely a recognition of the fact that in many countries having a long democratic tradition where human rights are recognised and protected the existence of capital punishment has not been regarded as a violation of those rights."

"It is also a recognition of the fact that all surveys of public opinion in South Africa show that our



The GCB said that in the circumstances it was difficult to characterize all impositions of the death penalty as a violation of human rights where careful and thoughtful opinion on the topic was divided.

Three aspects of the death penalty in South Africa should be addressed, the council said its imposition for politically motivated crimes, the influence of race in the sentence, and the existence of so-called "hanging judges".

The real question the TRC needed to answer where persons were executed where political motives played some part in the crime was whether the judges con-

ferred were actuated by any political motive in imposing the sentences or whether those sentences were imposed in the ordinary course of applying the law.

There were cases where the political motivation for a murder was recognised as extenuating circumstances and others where it was held to be insufficient.

The GCB said it had been unable to find cases where a judge acted from an overtly political motive in imposing the death sentence.

Referring to the existence of so-called "hanging judges" the GCB said it was easier to persuade some judges to find extenuating circumstances than others.

The council said it was impossible to suggest that these differences in predisposition arose from any specific political motivation or went beyond the division of views on the death penalty which permeated society as a whole.

Tutu urges business to help with compensations

CT 24/10/97 (252)
ROBERT BRAND

JOHANNESBURG Truth and Reconciliation Commission chairperson Archbishop Desmond Tutu has appealed to businesses and private individuals to donate money to help pay the R3 billion needed to compensate victims of apartheid.

Tutu said individuals from South Africa and abroad had already volunteered to contribute to the President's Fund, which will administer and disburse the reparations policy unveiled by the commission yesterday.

The proposal, which entails paying grants of up to R23 000 a year for six years to people identified as victims of gross human rights violations, will be submitted to Parliament for approval as part of the commission's final report in July next year.

"You cannot put a money value to suffering," Tutu told a news conference in Cape Town. "The amount is going to be symbolic. The nation is saying sorry."

Members of the commission defended the cost of the plan, saying it amounted to a fraction of the national budget.

While R3bn sounded like a lot, it represented only 0,25% of the annual budget for six years, deputy chairperson of the commission's reparations and rehabilitation committee Dr Wendy Orr, said.

The plan provides for urgent interim relief for those in immediate need of assistance

and for a long-term plan of reparation and rehabilitation which will be the government's responsibility.

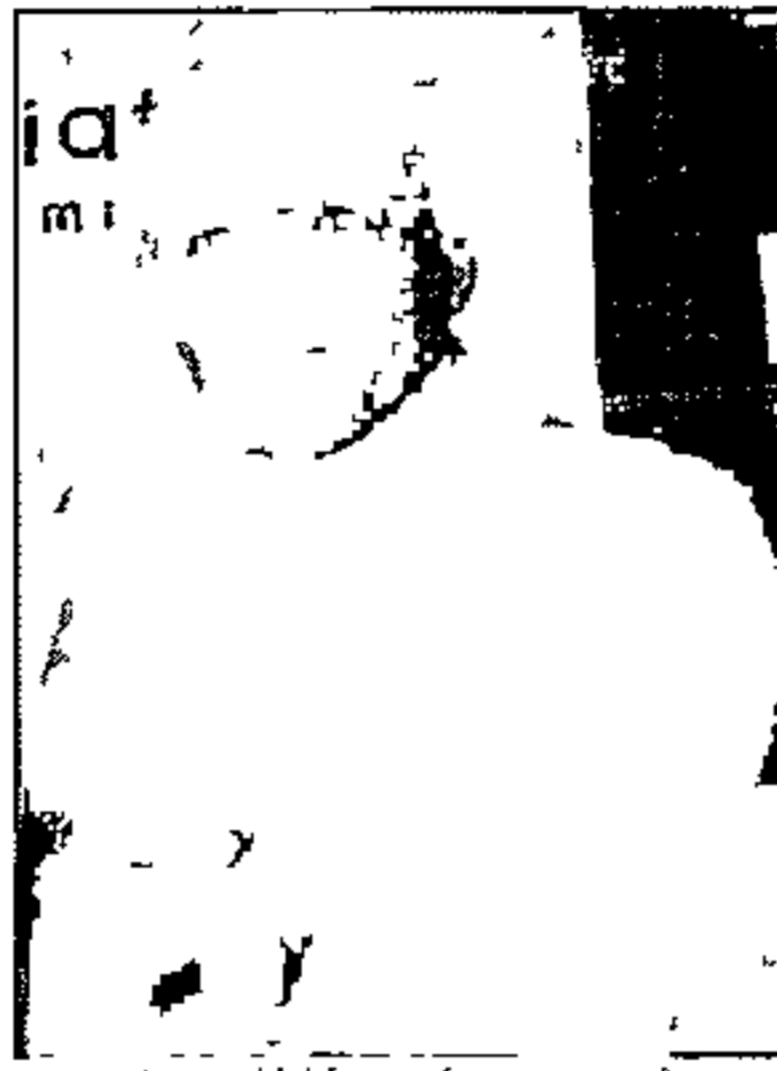
The long-term plan includes financial grants to individuals, symbolic reparation such as monuments and memorials, community rehabilitation programmes and institutional reforms.

Individuals identified by the commission as victims, or their relatives and dependants, will be entitled to grants ranging from R17 029 a year for six years to R23 023 a year.

The exact amount for each individual will be calculated

according to the number of dependants the beneficiary has and whether he or she lives in a rural or urban area.

The commission has received statements from 12 000 victims, but projects a final tally of 22 000 people who will qualify for grants.



APPEAL: Desmond Tutu has called for donations.

CRIMINAL ARRESTS & PROSECUTIONS

Criminal justice system faces a crisis of conviction

Convictions of suspects in trials for serious crimes have declined steadily and dramatically over the past six years

The crisis of competence and corruption in SA's criminal justice system is reflected in a dramatic decline in the conviction rates for prosecutions of serious crimes since 1991

Crime figures collated by the Central Statistical Service show that convictions of those accused for crimes such as murder, attempted murder, rape and assault with intent to inflict grievous bodily harm have dropped significantly each year of the past six. The declines coincide with police reports of consistent increases in these crimes, which should have led to higher conviction rates

Only since the end of 1996 have the police noted a stabilisation or decline in the numbers of reported violent crimes — though rape cases are still on the rise, possibly because victims are more willing than before to report them

The steady drop in convictions reflects "grave deficiencies" in policing methods,

court processes and the interface between detectives and prosecutors, say researchers Antoinette Louw and Sarah Oppler of the Institute for Security Studies. This drop applies even to drug-related crimes and traffic offences which rely almost entirely on police action and usually provide the prosecution with concrete evidence

Coupled with the decline in convictions comes evidence of an extraordinarily high rate of cases being withdrawn, both while under police investigation and in the courts. Nearly half of all cases of attempted murder, aggravated robbery and rape are with-

drawn during trial (see graph)

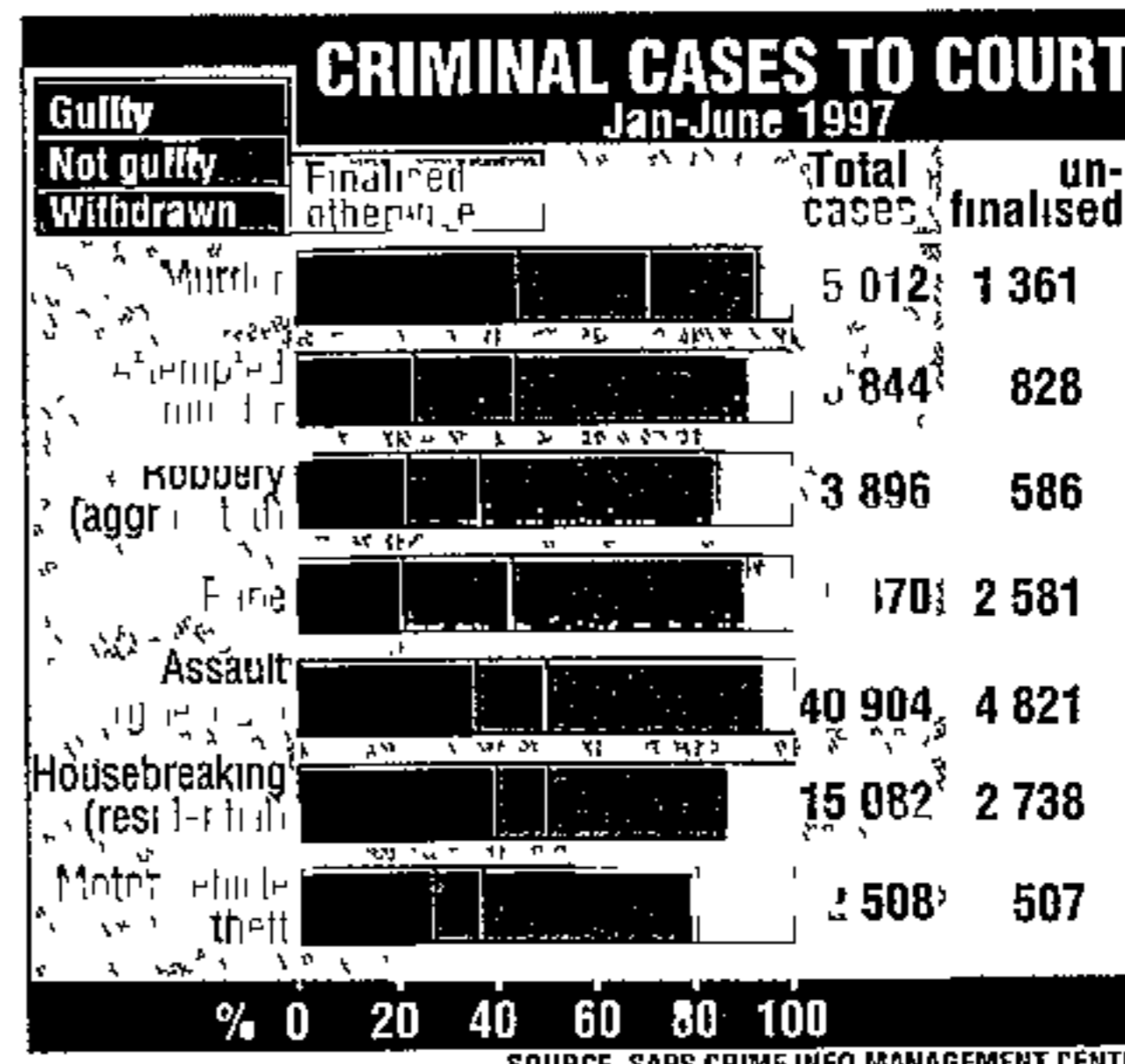
This and the "continuous escalation in the number of unresolved cases" is "a matter of serious concern," says the SA Police Service's Crime Information Management Centre. It notes that 34 592 cases (nearly 4% of all crimes under review) were unresolved between January and June this year. Of the nearly 181 000 cases referred to the courts in this time, more than 27 000 (15,1%) were unfinalised in the same period

A major reason for the high rate of case withdrawals from court, say Louw and Oppler, is the police's inability to provide sufficient evidence to support the charges against the accused — "a predictable symptom of bad management and the continuous 'brain drain' from police investigating departments"

What is more, while the police fail

to catch the perpetrators of up to 90% of all motor vehicle thefts and 77% of aggravated robberies, half of all charges for common assault, 37% for serious assaults and 23% for rape are withdrawn before reaching court

Peter Honey



CELLULAR INDUSTRY

Black firms vie for MTN stake

At least five groups are lobbying the Department of Communications to ensure that SBC's sale of its 15,5% equity in MTN is reserved for black empowerment groups. However, the stake — worth about R1bn, according to one shareholder — is likely to be fiercely contested

Existing shareholders have indicated that they are keen to exercise their preemptive right to take up the stake. Meanwhile black interest groups say MTN's licence was only issued on the condition that black empowerment firms would have a significant slice of the cellular pie — something that they claim has not happened

"This accusation is unfair," says one

shareholder, who points out that MTN has black shareholding through M-Cell — "which is ultimately owned by Johnnic" — and New Africa Investments (Nail). M-Cell holds 29,5% of MTN, with Cable & Wireless of the UK holding 25%, State-owned Transtel 20%, SBC 15,5% and Nail's New Africa Telecommunications (Nafel) the remaining 10%

A serious contender for the SBC stake is Rethabile, the group which recently made headlines with its 20% acquisition of Alcatel Altech Telecommunications

"We are putting together a widespread consortium from all the provinces," says Rethabile Group CEO Moss Ngwenya. Rethabile will be a minority shareholder

Those in Ngwenya's consortium include Tiego Moseneke's Khotso Investments, women and black investment groups, and Savuka, the company headed by Durban-based Dr Diliza Jaji

According to an MTN source others

eyeing SBC's stake include Vula, the telecoms group headed by Mark Headbush, IT&T, the Real Africa Investment subsidiary, Alan Roper's and Lee Samuels' Multitel, Thebe Investments and Safika, which is headed by Thabo Mbeki's economic adviser Moss Ngoasheng

Meanwhile Nthato Motlana's Nail has expressed an interest in increasing its stake in MTN. Motlana, who is also MTN chairman, orchestrated the entry of Texas-based SBC as MTN's controlling shareholder in October 1995. The 15,5% equity was sold for R330m

Some black lobbyists feel the sale to SBC violated the spirit of black empowerment

They are banking on the moral persuasion of Communications Department DG Andile Ngcaba to ensure SBC's stake doesn't go "to already empowered black businessmen"

Marina Bidoli

Tutu seeks donations for apartheid victims

Star 24/10/97 (252)

By ROBERT BRAND

Truth and Reconciliation Commission chairman Archbishop Desmond Tutu has appealed to businesses as well as private individuals to donate money to help pay the R3-billion needed to compensate victims of apartheid.

He said individuals from South Africa and abroad had volunteered to contribute to the President's Fund, which will administer and disburse the reparations policy unveiled by the commission yesterday.

"We hope the private sector is going to see this as a creative way of contributing to the healing process," he added.

The proposal, which entails paying grants of up to R23 000 a year for six years to people identified as victims of gross human rights violations, will be submitted to Parliament for approval as part of the commission's final report next July.

"You cannot put a money value on suffering," Tutu told a news conference in Cape Town. "The amount is going to be symbolic. The nation is saying sorry."

Members of the commission defended the

cost of the proposed plan, saying it amounted to a fraction of the national Budget.

While R3-billion sounded like a lot, it represented only 0,25% of the annual Budget for six years, said Dr Wendy Orr, deputy chairman of the commission's reparations and rehabilitation committee.

The benefits of reparations, such as better access to education and medical care, outweighed the projected cost, she said.

The plan provides for urgent interim relief to people in immediate need of assistance.

The long-term plan includes financial grants to individuals, and symbolic reparation.

Those identified by the commission as victims, or their relatives and dependants, will be entitled to grants ranging from R17 029 a year for six years to R23 023 a year.

The exact amount for each individual will be calculated according to a formula taking into account the number of dependants the beneficiary has and whether he or she lives in a rural or urban area.

► More reports

'Courts failed the individual'

(252)

ET 27/10/97

RONALD MORRIS

THE record of the judiciary as an upholder of the rights of the individual is largely indefensible before 1990 because of the way they applied security legislation, the Judge-President of the Cape has said.

Mr Justice Gerald Friedman will repeat this, in his personal capacity, to the Truth and Reconciliation Commission in Johannesburg today when the TRC hears evidence on the role of the judiciary under apartheid.

Judge Friedman said some judges accepted appointment without qualms about applying apartheid laws, while others felt there was still room for the advancement of human rights within the system.

Judge Friedman said there were many cases in which judges had no alternative but to give effect to apartheid laws.

"In doing so they refrained from commenting on the fact that those laws were unjust. The reason for this is that there was a reluctance on the part of the judiciary to comment on what were regarded as controversial political issues. In retrospect, this attitude was probably ill-advised," he said.

Because of their oath of office, judges had no option but to apply the laws of apartheid whether this was anathema to them or not. The only latitude they had was to ameliorate the harshness of these laws if they found them ambiguous.

While it was questionable whether criticism from the judiciary would have influenced government policy, it might have created the perception that the



CRITICAL: Judge-President of the Cape Gerald Friedman

judiciary was at least distancing itself from the laws, Judge Friedman said.

Although judges should avoid becoming involved in party politics, there was no reason why a judge should not criticise morally indefensible laws, he said.

Dealing with the question of why, in the light of the plethora of evidence of torture by the police and security forces to extract confessions from detainees, the

courts nevertheless admitted such confessions in evidence, Judge Friedman said.

"The courts were in these cases faced with a dilemma. The detainee would testify how he was assaulted. The police or security force members, on the other hand, would go into the witness box and deny these allegations.

"In this they would be corroborated by the district-surgeon, who would testify that no evidence of any assault was found on the detainee.

"One knows now, from the evidence which has emerged at hearings of the TRC, that many of these witnesses were prepared to lie to the court. Despite cross-examination, it was very often impossible to find that their testimony was untruthful, since the court has, in each case, to make its findings on the evidence placed before it.

"That evidence included the testimony of the magistrate or police official who took down the confession that the person making it had no visible signs of recent injuries," Judge Friedman said.

Replying to a question on the role of the judiciary in applying security legislation, Judge Friedman said that before 1990 the judiciary's record was largely "indefensible".

"It was precisely in this field that the courts chose to place interpretations on legislation and regulations which favoured the executive rather than the subject. In many cases judgments in the provincial division were given in favour of the subject, particularly during the states of emergency, only to be overturned by the Appellate Division."

(252)

PRETORIA ADVOCATES WERE RACIST

Revolt against nature' has been successful

RONALD MORRIS

WOMEN were only qualified to bear children and any attempt to admit them as attorneys was regarded as a revolt against nature.

It was the view of the highest court in the country earlier this century when the Appeal Court refused to allow women to be admitted as attorneys.

Fortunately that view no longer holds, the General Council of the Bar — the national advocates body — told the Truth and Reconciliation in its submissions on the contribution of the legal system to human rights violations.

The Appeal Court decision of 1912 formed the basis for decades-long discrimination against women in the legal profession.

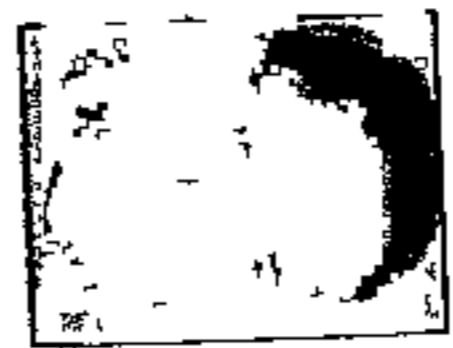
An academic said in 1918 "A revolt against nature is involved in any proposal to allow women to enter the legal profession. This idea is incompatible with the idea and duties of motherhood."

Six years later a leading Cape judge said such departures from the order of nature were, when voluntary, "treason against it".

It was only in 1969 that the first woman, Miss Justice Leo van den Heever, was appointed to the bench. She went to the Appellate Division in 1991.

The second woman Madam Justice J Traverso was appointed in 1994. Seven more have been appointed since 1995.

Cape Bar Council took lead against apartheid



FROM ITS TRC submissions, it emerges that the General Council of the Bar failed to ensure to opponents — discrimination.

THE Cape Bar Council has emerged as the torch-bearer of civil liberties when successive apartheid governments subverted the rule of law, curtailed human rights and sought to nullify court judgments which went against government policy.

The Cape council — subjected to consensus by the General Council of the Bar (GCB) — often acted on its own, or with the support of the Johannesburg Bar Council, in releasing press statements when the then minister of justice refused to consider its objections to repugnant provisions in bills before Parliament.

This led to attacks in Parliament that the GCB was entering the political arena which was not its concern.

This emerged in submissions the GCB made to the TRC. The Cape Bar Council, with Johannesburg, railed against the Unlawful

meeting that a joint approach should be made to the minister of justice to obtain permits for black members in or near buildings occupied by white members.

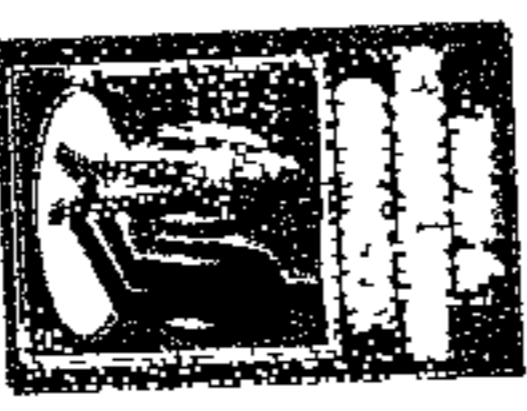
Pretoria said it would not be associated with representations to obtain permits for "non-European barristers" to occupy chambers with whites.

It was only in 1980, under threat that it could be excluded from the GCB's annual general meeting, that the Pretoria Bar voted to scrap membership to whites only.

When, for example, amendments were proposed to the Suppression of Communism Act, the Pretoria Bar resolved that it was undesirable that a communist should be or remain a member of the profession.

By then the Johannesburg Bar had already resolved to strike Fischer from the Roll of Advocates.

On August 17 this year the Pretoria Bar Council confirmed the correctness of the 1980 membership decision and unconditionally apologised to those affected. Individuals affected by the colour bar were approached by the chairperson and vice-chairperson and offered an apology.



N

ATTACKERS SEEK AMNESTY

Survivors still haunted
by Heidelberg shooting

WHILE THREE of the men responsible for the Heidelberg attack seek amnesty, the survivors have mixed feelings
CYNTHIA VONGAI reports

FOUR years ago a group of friends went out for a drink at the Heidelberg Tavern in Observatory

It was the festive season and the four friends, Ms Bernadette Langford, Ms Lindy-Anne Fourie, Mr Quinton Cornelius and Mr David Deglon chose a table and settled down to enjoy their drinks. None of them expected the coming horror.

Pan-Africanist Congress (PAC) members burst into the pub and sprayed it with automatic rifle fire, killing four people and injuring six. University of Cape Town students Langford and Fourie were killed instantly. Cornelius was shot in the spine, Deglon was shot in the back, hand and foot.

The other people who died that night were Ms Rolande Palm and the then owner of Machados Tavern, next to the Heidelberg, Mr José Nosolino Cerqueira.

Today the men who organised and carried out the attack on December 30 1993 — Richard Dala, 49, Zola Mabala, 28, and Humphrey Gqomko, 30 — will appear before the Truth and Reconciliation Commission (TRC) for the first session of their amnesty hearings.

A TRC spokesperson said the applicants would be arguing that they had been given orders to carry out the attack as part of the struggle for democracy by black South Africans.

Dala, Mabala and Gqomko are serving jail terms ranging from 18 to 27 years each for their part in the attack. At today's hearing, victims hope the applicants will shed light on the planning and motivation for the attack.

In May this year, during its submission to the TRC, the PAC admitted involvement in and responsibility for both the St James Church and the Heidelberg attacks.

Last month, in another submission to the TRC, the PAC leaders said "We do not regret these operations. These scores of attacks launched by the Apla army. We are taking full responsibility. It is a cold bath of reality, it was painful. We must put it as it is. The oppressor had to feel the pinch and also bury their dead. If the war was taken by the apartheid army to the black townships, it also had to be taken to the white areas."

The Cape Times spoke to victims of the Heidelberg attack, Mrs Kathy Cerqueira, whose husband José was killed, Deglon, who lost his friends and flatmates, and Mr Johan Fourie, whose daughter Lindy-Anne was killed.

Remembering that night, Deglon said "I sat at a table with my friends, celebrating the end of a hard year of study and anticipating the new year with optimism."

"The 'Old South Africa' had died in the preceding years and the whole nation was awaiting our first democratic election and our subsequent re-entry into the

CT 27/10/97 (252)
Ntsebeza's car may have been used as getaway in tavern raid

JOHANNESBURG: The head of the Truth and Reconciliation Commission's investigations unit, Mr Dumisa Ntsebeza, has been given notice by the amnesty committee that he might be implicated in the hearing on the Heidelberg Tavern attack.

TRC spokesman Mr John Allen confirmed yesterday there were allegations that Ntsebeza's car had been used as a second getaway vehicle in the attack, in which four people died in December 1993.

This emerged as Allen was asked to comment on a City Press report sought to clarify the reasons for the resignation last week of TRC investigator Mr Glen Goosen.

The amnesty committee's chief of evidence, Mr Mokoeti Mpshe, said yesterday that he had issued the notice to Ntsebeza in terms of the Truth Commission Act.

City Press claimed yesterday that Goosen had resigned because the TRC had refused to allow him to serve a Section 19 notice on Ntsebeza to answer questions about his car's possibly having been used as a getaway vehicle in the attack by members of the Pan-Africanist Congress armed

international arena.

"Lindy was telling an old joke to Quinton, while Bernie and I were listening with suppressed laughter, anxiously awaiting the punchline, when a number of sharp 'cracker-like' explosions went off. As it was approaching new year, I assumed that some joker had thrown a few crackers on the floor and I waited for them to run out."

"Something tugged at my hand, then my foot and gradually, almost in a dream-like manner, I realised we were being shot at."

"As I lay on the bench waiting for the shooting to stop I was thrown forward by a bullet which had entered the small of my back, slightly to the left of the kidney, and exited through my stomach."

"I glanced over my shoulder and saw people leaning over the still forms of Lindy and Bernie and looking at one another, and at me, with expressions of concern, even pity, but not much hope."

"At that moment, the thoughts and feelings that were running through my mind, carried high above the incessant and nauseating background of pain, were of absolute confusion, the confusion born of an insane act by insane people — dangerous, violent, insane people," Deglon said.

Asked if he was willing to reconcile with his daughter's killers, Fourie said "I just need to know who was behind it and why I do not want to prejudice the TRC

Allen said Goosen's resignation had not been linked to the Heidelberg investigation, but to a clash over the restructuring of the investigation unit.

He confirmed however that there were allegations that a car registered in Ntsebeza's name had been used as a second getaway car.

The attackers have not named or mentioned the car in their application, but the investigative unit has been looking into the allegations against Ntsebeza," Allen said.

City Press claimed to have information that Goosen had recommended notice be served on Ntsebeza.

However, Mpshe said: "No one asked me to do anything. I decided myself to do so."

Commission chairman Archbishop Desmond Tutu also said Goosen's resignation had nothing to do with the Heidelberg Tavern investigation.

The process is in the hands of the amnesty committee," Tutu said.

"It is free to do exactly as it wishes."

Goosen said the report is not correct. — Sapa

hearing, so I would like to wait until the process is complete before I speak, but I must say that my heart says something and my mind another. I will judge and then decide if the information given was genuine or not, and then I will state my position."

Reflecting on her life since her husband died, Cerqueira said she had forgiven the men who were responsible and that she prayed they would seek forgiveness from God as he was the one who could really forgive them. "As a Christian I believe in God's word. Vengeance belongs to him."

"It has been a difficult four years for my children. I have recently taken my children and myself to see a psychologist and have made a quality decision to look to the future and not harp on the past."

Deglon said he had recovered from the attack, but found reconciliation difficult. He said what he found strange was the PAC's choice of Observatory. He said apartheid in Observatory "had died many years before the attack."

He said he had heard the word "soldier" used in connection with military operations, but could not understand how the term could be used to describe "a man who stands and shoots an unarmed young woman repeatedly in the back with an automatic rifle." He said even if there had been a political motivation, the attack had been "cold-blooded murder."

TRC subpoenas Ntsebeza about getaway car

Truth and Reconciliation Commission investigations head Dumisa Ntsebeza has been subpoenaed to answer questions relating to the possible use of his car as a getaway vehicle by members of the PAC armed wing in 1993 in Cape Town.

TRC spokesman John Allen confirmed yesterday that there were allegations that a car registered in the name of Ntsebeza was used as a second getaway car following the attack, and the amnesty committee had served a notice on Ntsebeza under a section of the Truth Com-

mission Act which required the TRC to give notice to a person who might be implicated during a hearing or might have interest in the hearing. Four people died in the attack, which has come to be known as the Heidelberg Tavern massacre.

"The attackers have not named or mentioned the car in their application, but the investigative unit has been looking into the allegations against him (Ntsebeza)," Allen said. He said the person who issued the notice was the chief of evidence of the amnesty com-

mittee, Mokotedi Mpshe. "Nobody asked me to do anything. I decided myself to do so," Mpshe said.

Allen said commission investigator Glenn Goosen's recent decision to resign had nothing to do with the subpoena.

Allen was reacting to a City Press report which said circumstances leading to a bitter row and the resignation of Goosen centred around a dispute over the alleged use of Ntsebeza's vehicle in the massacre. The newspaper said Goosen resigned from his position last

week after the commission refused to allow him to serve a Section 19 notice on Ntsebeza.

But Allen said Goosen's resignation was not linked to the tavern massacre, but was due to a clash over the restructuring of the investigation unit.

TRC chairman Archbishop Desmond Tutu said: "This has nothing to do with Glenn Goosen's resignation. The whole process is now in the hands of the amnesty committee." - Sapa

Judiciary indefensible
Page



Tables have turned... Dumisa Ntsebeza to answer to the TRC.

SAPA 27 10 1997 (252)

Apartheid judiciary indefensible, says judge

(250)

27/10/97

Cape Town - Before 1990, the judiciary's record in applying security legislation was by and large indefensible, according to Cape Judge President, Mr Justice Gerald Friedman

The courts frequently chose to interpret security legislation and regulations which favoured the executive rather than the subject, he said in a submission to the Truth and Reconciliation Commission released to the media yesterday.

The commission starts hearing evidence of the judiciary's role under apartheid today

Making the submission in his personal capacity, Judge Friedman said provincial courts often made judgments in favour of the liberty of the subject, especially during the states

there was a reluctance on the part of the judiciary to comment on what were regarded as controversial political issues"

While it was questionable whether criticism from the judiciary would have influenced government policy, it may have created the perception that the judiciary was at least distancing itself from the laws it was obliged to apply, the judge said

Stressing that judges should avoid becoming involved in party politics, he added there was no reason why judges should not criticise a law they regard as morally indefensible.

The judiciary's powers were severely restricted because they were obliged to function under the system of parliamentary sovereignty, Judge Friedman said

However, it could rule on subordinate legislation and in many instances did declare regulations invalid or place an interpretation on apartheid legislation in favour of the subject

In his submission, Judge Friedman dealt at length with the question of why, in the light of the plethora of evidence of torture by the police and security forces to extract confessions from detainees, the courts still accepted such confessions in evidence.

Generally speaking, the courts were faced with the dilemma of weighing up testimony from a detainee about how he was assaulted, against the denials of the police and the security forces, who were backed up by the district surgeon, he said.

"Despite cross-examination it was very often impossible to find that their testimony was untruthful since the court has in each case to make its findings on the evidence which is placed before it" - Sapa

There was a reluctance to comment, TRC told

of emergency, only to have them overturned by the Appeal Court

"The court's record as an upholder of the rights of the individual in the application of security legislation cannot, with obvious exceptions, be defended. Nevertheless it cannot be said that judgments which went against the right of the subject in favour of the State could not be intellectually and honestly justified by the judges concerned"

Judge Friedman said there were many occasions when judges had no alternative but to give effect to apartheid laws and in so doing tended to refrain from commenting that they were unjust

"The reason for this is that

Judges criticise judiciary's role under apartheid

Linda Ensor

CAPE TOWN — The judiciary's failure to uphold individual human rights when applying apartheid security legislation was "undefensible", High Court Judge President Gerald Friedman has said in a personal submission to the truth commission.

The commission begins its hearing on the role of the legal system under apartheid today.

Friedman said it was in the field of security legislation that the courts "chose to place interpretations on legislation which favoured the executive rather than the subject".

Where judges in the provisional divisions did make progressive judgments, these were usually overturned by the Appellate Division.

Friedman said he made his statement in his personal capacity as the judiciary was not a collective — each

judge was responsible for his own decisions. He said that the judiciary was bound by legislation adopted by Parliament, however unjust. "The court's power was limited to interpreting and applying the law; it had no power to pronounce on its validity."

There were many occasions when judges had no alternative but to give effect to apartheid laws but in so doing, they tended not to highlight the fact that they were unjust because of a reluctance to comment on what were regarded as controversial political issues. Friedman said in retrospect this attitude was probably "ill advised".

By virtue of the oath which judges had to take, they had no option but to apply apartheid laws however repugnant. The only latitude they had was to lessen the harshness of these laws if they found them to be ambiguous.

While the judiciary's powers were restricted by the sovereignty of Parlia-

ment, judges were, however, able to declare subordinate legislation, such as regulations, invalid.

Regarding the admission as evidence of statements made by detainees despite their allegations of torture at the hands of the security police, Friedman said the difficulty for the judges was that they were presented with false evidence by security policemen and district surgeons.

Intense

"If the police were prepared to stand under oath as it transpires they were, there was little the judicial officer presiding at the inquest could do.

"Findings of culpability have to be based on evidence, suspicion is not enough."

Friedman said there had been intense debates in the 1980s as to whether judges should sit on the bench at all if they had to apply unjust laws. Some felt they could make a difference, while others saw it as necessary for the advancement of their careers.

He disagreed with the appointment of judges to head commissions of in-

quiry tasked with the investigation of delicate public issues as it could harm their image of impartiality.

The rules for civil proceedings in both the High Court and the Magistrates' Courts needed to be fundamentally reformed, Friedman said. This reform, under investigation by the rules board, was necessary to address the perception that justice was the privileged domain of the few.

Four Appeal Court judges, JW Smalberger, CT Howie, RM Marris, and DG Scott, also made a submission saying that it was "undefensible" that black people were barred from the Supreme Court bench until recently.

They conceded that "there were a significant number of cases with a high public profile which it can be argued could have been decided differently, quite legitimately, without any violation of the judicial oath of office."

"In our view the judiciary is certainly not free from any blame for the role it played but that does not justify unwarranted attempts to demigrate its very substantial contribution to society during a contentious and troubled era in the life of the country," the judges said.

Local govt conference

reference majority modal

BD 27/10/97

(252)

Truth body investigator did not notify his

Vuyo Mvoko

TRUTH commission leader of evidence Mokošedi Mpshe — and not commission investigator Glen Goosen — decided to notify commissioner and head of investigations Dumisa Ntsebeza that according to an application before the amnesty committee, a witness had implied that Ntsebeza's car might have been used in the 1993 Heidelberg Tavern shooting.

Three men have applied for amnesty in connection with the shooting in which four people died. The amnesty application is to be heard today.

Commission spokesman John Allen, dismissing yesterday's City Press newspaper report that Goosen resigned from his position last week after the commission refused to allow him to serve a Section 19 notice on Ntsebeza, said there was nothing unusual about the "advanced notice" that was given to Ntsebeza.

It was "definitely not a subpoena," Allen said. He said the commission had to notify anyone "who may be implicated" during its proceedings.

Another commission spokesman, Christelle Terblanche, said that in terms of the notice, Ntsebeza did not even have to appear before the amnesty committee unless he was "seriously implicated."

Nothing is scheduled at this stage. It's in the hands of the amnesty committee," she said.

According to an amnesty application submitted to the commission, Ntsebeza's car is alleged to have been used in the 1993 Heidelberg Tavern shooting that was carried by members of the Pan Africanist Congress-aligned Azaman People's Liberation Movement.

Allen said yesterday that commission deputy chairman Alex Boraine had announced on July 25 that the truth commission had information on the alleged use of Ntsebeza's car in the shootings.

In addition, Allen said, the information was at the court's disposal during the case's proceedings but was never used.

Evidence before the court pointed to the possibility of the killers using

as their getaway car a vehicle that carried the same registration number as Ntsebeza's. The killers were said to have changed their car's number plates in Cape Town's Guguletu township.

Allen read a statement by commission chairman Archbishop Desmond Tutu saying "We would act immediately if there was any evidence that proved that Ntsebeza was involved. He could not continue as a

commissioner if he was involved. I am confident that on the basis of what I've got, this is not the case."

Allen said the amnesty application process must be allowed to take its course.

Sapa reports that Goosen, who resigned from the truth commission last week, said that he had not questioned any subpoena notice and that he claimed that the newspaper report was "not correct at all."

boss about car (252) BD 27/10/97

Judiciary lashed for not testifying

ARGUS 27/10/97

(202)

ARGUS CORRESPONDENT

Johannesburg - The Truth and Reconciliation Commission special hearing into the legal system started today with a scathing attack on judges for their refusal to testify.

TRC chairman Archbishop Desmond Tutu said it appeared the majority of judges still clung to their apartheid mindset of "un-

touchability" Canadian law professor David Dyzenhaus, who has studied the performance of the judiciary during apartheid, said the absence of judges from the hearing was a "disgrace"

In discussions with Archbishop Tutu last week, Chief Justice Ismail Mahomed could not be persuaded to testify personally, but said other judges were free to do so

But the archbishop said today

judges during apartheid had generally seen themselves "as part of the total strategy against the so-called total onslaught" and had failed to uphold human rights

Professor Dyzenhaus, of the University of Toronto, singled out former Chief Justice Pieter Rabe for "his role in undermining the rule of law" Judge Rabe headed a commission which advised on security legislation

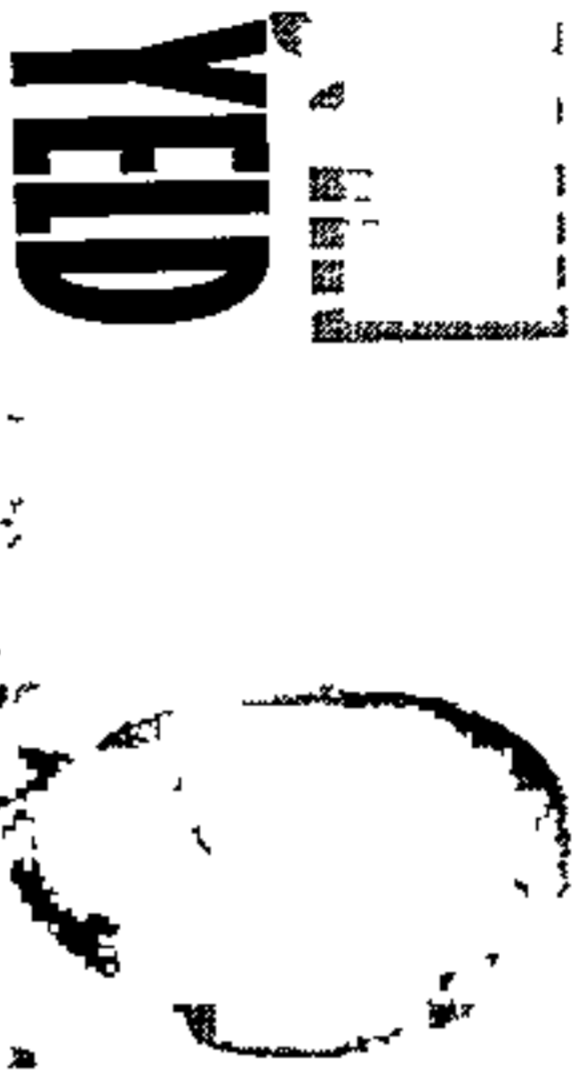
Why Heidelberg Tavern was hit

It was security forces hang-out, says Apla man

ARG 27/10/97

The Heidelberg Tavern in Observatory was selected for attack by the Azanian People's Liberation Army (Apla) because Apla intelligence sources reported it was frequented by government security forces, the Truth Commission heard today.

This was stated in the amnesty application of Humphrey Luyanda Gqomfa, one of three Apla members applying for amnesty for the attack on the tavern on December 30, 1993, in which four people died and five were seriously injured.



ON THE TRUTH COMMISSION

The other two are Zola Mabala and Vuyisile Madasi. The three, who were convicted of the attack, are

Apla men may implicate Ntsebeza

Truth and Reconciliation Commission investigations head Dumisa Ntsebeza has been told that he may be named by members of the Pan Africanist Congress, surnamed wing, Apla, involved in the Heidelberg Tavern massacre in Observatory in 1993, in connection with the possible use of his car as a getaway

vehicle after the atrocity. TRC spokesman John Allen confirmed yesterday there were allegations that a car registered in the name of Mr Ntsebeza was used as a second getaway car after the attack.

The amnesty committee had served a notice on Mr Ntsebeza under a section of the Truth Commission Act

This required the TRC to give notice to a person who might be implicated during a hearing or might have an interest in the hearing.

Three members of Apla are to appear before the commission's amnesty committee in Cape Town this week in connection with the attack on the Heidelberg Tavern. Sapa and Staff Reporter

Judges' apartheid dilemma

JOHN YELD

Because of the oath they took on assuming office, Supreme Court judges had no option but to apply the laws of apartheid in the previous political dispensation. Judge President of the Cape High Court, Mr Justice Gerald Friedman, has told the Truth Commission.

In his submission on the role of the judiciary, which is one of many inputs

for the commission's legal sector hearing being held in Johannesburg this week, Judge Friedman said that before the introduction of the interim constitution in 1994 Parliament's laws passed by Parliament, however unjust, could not be challenged in the courts and a court's power was limited to interpreting and applying those laws. This meant judges had to apply apartheid laws

the time of the attack but had served jail sentences ranging from 18 to 27 years.

They also admit attacking the SA Defence Force base in Nyanga East and the Lingelothu West police station, also in December 1993.

Setting out the justification for the attack in his amnesty application, Gqomfa said Apla's intelligence sources had found out that the Heidelberg Tavern had been frequented by government security forces.

This had been proved correct during their trial, he said, as a Captain Du Plessis had been in the tavern at

the time of the attack but had survived. "She was from the SADF security forces (who) are known and notorious for their atrocities against African people."

Gqomfa said "It is a well-known fact that we Africans were subjected to evil deeds worse than those experienced by the Jews under the Nazi regime."

Mr Gqomfa said he sincerely regretted the loss of life, and extended his "deepest and honest apologies" to the families of the victims.

At the start of today's amnesty

hearing, lawyer Christine Quanta said she wanted to place on record that her client, Dumisa Ntsebeza, who heads the TRC's investigative unit, had been implicated in the Heidelberg incident.

A witness had apparently told police Mr Ntsebeza's car had been used as a back-up during the attack.

Ms Quanta said it was important that this witness be called so that Mr Ntsebeza could respond. "He believes it is important for his credibility as head of the investigative unit and the commission as a whole."

Kriel adamant death referendum will go on

Star 28/11/97 (252)

ANC calls the Cape premier's move a party electioneering ploy which goes against the constitution and Bill of Rights

OWN CORRESPONDENT

Cape Town - Western Cape premier Hernus Kriel has announced a referendum on the death penalty in his province early next year.

His spokesman Chris Kooler said Kriel had taken the decision after seeking legal advice.

Kriel told the National Party congress yesterday the referendum was being called "in terms of Section 127 (ii) (f) of the constitution, which allowed premiers of provinces to call referendums on any issue".

Kooler said Kriel was adamant the referendum would be held. Legal advisers did not expect any constitutional hitches.

Kriel did not know how much the referendum would cost. "We are investigating that," Kooler said.

Kriel said local government would be asked to assist in ad-

ministering the referendum.

Meanwhile, National Party leader Marthinus van Schalkwyk announced the party would propose private member's legislation at the start of next year's parliamentary session to bring back the death penalty for serious offences.

Van Schalkwyk said he suspected the ANC would try "every trick in the book" to prevent the referendum being held. The ANC knew that what they said was not what the people wanted.

While the NP would push for a "yes" vote in the referendum, its members would be given the freedom to vote according to their consciences, said Van Schalkwyk.

He challenged the ANC and other parties to allow their members the same liberty.

The proposed referendum on the death penalty would be of no legal or constitutional

consequence, ANC spokesman Ronnie Mamoepa last night said. The ANC respected and abided by the Constitutional Court's decision to outlaw the death penalty in line with provisions of the Bill of Rights.

In this regard no provincial government, including the Western Cape, could introduce legislation which overrode decisions of the Constitutional Court or provisions of the constitution.

"We can only assume Kriel's move in this regard is simply an election ploy geared towards bolstering the image of a gradually disintegrating political party which recent surveys have indicated is suffering a haemorrhage in support and confidence among the people," Mamoepa said.

The ANC questioned the wisdom of using taxpayers' money for party political electioneering processes.

Families back Kriel on death penalty call

ASHLEY SMITH
STAFF REPORTER

ARG 28/10/97 (262)

Many Capetonians have backed Premier Hennis Kriel in calling for a referendum on the reinstatement of the death penalty.

In emotional interviews with the Cape Argus last night, relatives who have lost loved ones in some of the most gruesome murders in the city voiced their "full support for the return of capital punishment"

However, Amnesty International in South Africa has branded the call "absolutely ridiculous"

But Abdul Gani Moolajee, whose sister Shariefa was murdered by her married lover, Igshaan Parker, said he felt bringing back the death penalty was "long overdue"

"Crime is escalating and is out of control - but absolutely nothing has been done," he said

Mr Moolajee said he and his family had been "through hell" after his sister was murdered. Her convicted killer was still out on parole pending the outcome of his appeal against his 25-year prison sentence

"He (Mr Parker) lives opposite me

and I have to look at him every day," he said, adding that criminals were at present enjoying more rights than their victims.

Evelyn Curtis, the elderly mother of murder victim Veronica Uytendogaardt, said she "definitely agreed that the death penalty should be brought back"

Trevor de Wet, the man who stood accused of killing her daughter, has been convicted of assault and fined R1 000. At the time, the sentence caused such an outcry that Attorney-General Frank Kahn said the State would appeal against the "shockingly inappropriate" punishment

Mrs Curtis said "There's no justice. People think they can get away with murder"

■ Mr Kriel does not know how much the referendum on the death penalty, which he says will be held in the province next year - will cost, writes Clive Sawyer. But he asked whether anyone would have queried the cost if President Mandela had announced a similar referendum

Mr Kriel emphasised that in making his announcement yesterday, he had said local government would be asked to help administer the poll

Omar to separate judicial functions

CT 28/10/97

(252)

DONWALD PRESSLY
PARLIAMENTARY BUREAU

LEGISLATION is in the pipeline to establish a single national prosecutorial authority as part of the government's campaign to separate judicial functions.

Justice Minister Mr Dullah Omar, who opened the triennial conference of the Commonwealth Magistrates' and Judges' Association at Parliament yesterday, said that in future prosecutors would fall under a national director of public prosecutions.

Omar said that historically prosecutors were accountable to their heads of offices — magistrates.

This meant that at some level there had been no separation between pros-

ecutorial and judicial functions

"We have set into motion a process which will effect such separation . . . not because we do not want co-operation between the prosecution authority and the judiciary, but to enhance the independence of the judiciary, which is a constitutional imperative."

Addressing magistrates and judges from around the Commonwealth, Omar said one of the problems from the past was that magistrates were drawn solely from the ranks of prosecutors

"One of the criticisms of this system has been that magistrates have been more prosecution-minded than High Court judges, who were usually drawn from the ranks of senior

lawyers," Omar said

One of the proposals being studied was to allow magistrates to be appointed from the ranks of lawyers "especially in civil courts"

South Africa had been transformed into a constitutional state and all organs of government, including Parliament, had to work within the framework of the Constitution and respect the bill of rights, he said

His sentiment was echoed by Chief Justice Ismail Mahomed, who said that judges and magistrates needed to jealously protect the independence of the judiciary within the context of respect for human rights

Omar said the judicial service commission, which appoints judges, is to provide training and orientation

TAVERN RAID 'NOT TARGETED AT WHITES'

Apola unit told to 'kill all'

CT 28 | 10 | 97

(252)

LYYANDA GQOMFA, who led the Heidelberg Tavern attack, says it was not a failure that only one of the dead was white as "an oppressor has no race". **ROGER FRIEDMAN** reports.

THE leader of the Azaman People's Liberation Army (Apola) unit that attacked the Heidelberg Tavern in December 1993 says he was acting under orders to "kill anything that lives inside those premises".

Although police found more than 150 spent cartridges on the scene, the six-man group led by Luyanda Gqomfa killed only four tavern patrons and wounded six

Gqomfa, Vuyisile Madasi and Zola Mabala have applied for amnesty. They are serving prison sentences of between 18 and 27 years for their roles in the attack.

Gqomfa chose not to give evidence in his defence during his High

Court trial

Speaking publicly about the attack for the first time yesterday, he named senior Apola commander Mr Sichumiso Nonxuba as having ordered the attack.

"He told me it was a place frequented by members of the security forces. I was trained not to question instructions given by members of the high command."

The arms and ammunition used in the Heidelberg attack — and in earlier attacks on the Nyanga army base and Lingelethu West police station — had been supplied by members of the Pan Africanist Congress' then-regional executive committee, Mr Theo Mabusele, Mr Michael Siyolo and Mr Richard Dala, Gqomfa said.

The attack had not been intended to target white people. It was not perceived as a failure that only one of the dead was white

many, many people?" Prior asked Gqomfa responded "That was our aim. I'm clear about that."

Prior later suggested to Gqomfa that he was lying when he said all shots had been fired from outside. Prior showed a police video of cartridges strewn in the interior.

"I was there. I committed this," Gqomfa said. "I have come here to tell you how I did this. As far as I know there is no one who entered the tavern. If you say I am lying, you must give me reasons why I should be deceptive."

Gqomfa said he had joined Apola because of his conviction that he should oppose the oppression he had suffered.

In his written submission, he said "This offence should not be

viewed in isolation with other wars of resistance gallantly carried out by our forefathers defending our land and its indigenous people against land robbery, military subjugation and persecution carried out by racist colonialist settlers.

"We Africans were subjected to evil deeds worse than those experienced by Jews under the Nazi regime. The Azaman people were nakedly exposed to brutality perpetrated by our settler colonisers — our intelligence and values were undermined and prejudiced.

"Out of this scenario these battles were drawn by our oppressors. My humble plea to the honourable justices is to see these offences through the eyes of the oppressed."



APPLICANTS: Vuyisile Madasi, Luyanda Gqomfa and Zola Mabala are seeking amnesty for their roles in the December 1993 attack on the Heidelberg Tavern. The hearing began yesterday and is to continue throughout the week. **PICTURES: BENNY GOOL**



CASUALTY: An emotional Quentin Cornelius, confronting the Heidelberg Tavern attackers yesterday, described them as "terrorists" and the operation as "senseless".

'Second car' was seen in Guguletu (252)

ROGER FRIEDMAN
CT 28/10/97

A GUGULETU man, employed as a gardener at a Kenilworth apartment block, is the witness who claims to have seen the Heidelberg Tavern attackers climbing into a car apparently linked to senior Truth and Reconciliation Commissioner Mr Dumsa Ntsebeza.

According to two affidavits released by the commission yesterday, Mr Bennett Sibaya, 58, is "sure" he correctly memorised the Umtata number plate on the white Audi sedan — which matched Ntsebeza's — soon after midnight on the last day of 1993.

Sibaya made a full statement to the police a few days after the attack. He handed in a map he allegedly picked up at the scene and which showed the route to the Heidelberg Tavern in Observatory. However, he was not called as a witness in the High Court trial of Zola Mabala, Luyanda Gqomfo and Vuyisile Madasi.



In an affidavit deposed in August this year, Sibaya seems to suggest his initial statement was covered up by the former head of the murder and robbery unit, Captain Des Segal, who died recently.

According to Sibaya, he was driving around Guguletu on the night of December 30 with a friend, a Mr Mazibuko, looking for the home of a girlfriend, when they came across two cars and a group of heavily armed men.

Mazibuko was later killed in Khayelitsha and Sibaya was visited by a "Mr Segal".

"He said I must not worry about Mazibuko. Mr Segal took me to a man at the court. I told the man about the map and the white Audi. He said to me the police said they could not find the white car, maybe the registration number was false. The man said I could go home, there was no need for me to go before the judge. Mr Segal told me also I must keep quiet and I must not talk about Mazibuko."

Ntsebeza attended yesterday's amnesty hearing with a legal representative, Ms Christene Qunta, and Qunta began the proceedings by noting that Ntsebeza believed Sibaya should be called to testify for the sake of his credibility and the commission's.

Head of the amnesty committee Judge Hassen Mall said he believed Sibaya would be available during the week.

Gqomfa denied a second car was used in the getaway and said he did not know Ntsebeza.

REFERENDUM FOR WESTERN CAPE MOOTED

Kriel plans vote on death penalty
THE DEATH PENALTY looks set to become the National Party's major lobbying tool in the months leading up to the elections in 1999. Political writer **KARIN SCHIMKE** reports.

REFERENDUM on the death penalty was being planned for the Western Cape early next year, Premier Mr Hennus Kriel said yesterday.

And, at an NP public meeting in Parow last night, party leader Mr Martinus van Schalkwyk said his party would table a private members' bill in Parliament calling for the reinstatement of the death penalty. He would urge the ANC to allow its members a free vote on the issue because it was a question of conscience.

He said several opinion polls had shown that more than 70% of the population wanted the death sentence for serious crime.

Referring to Kriel's earlier announcement that a provincial referendum would be held on the issue, Van Schalkwyk said: "I suspect (the ANC) will try every trick in the book to make sure the referendum doesn't take place because they know that what they say is not what the people want."

Kriel — who was re-elected provincial party leader at the Western Cape NP's fourth congress yesterday — said the details of how the referendum would be run would still have to be worked out. At this stage, it seemed the referendum would be based on local government election voters' rolls. There was a chance that ANC-held

councils would not co-operate because of the ANC's steadfast stance that no referendum will be called on this matter.

However, Kriel said he thought all the councils could be convinced to help. He would be holding the referendum in terms of Section 127 of the Constitution which allows for a prime minister to call a referendum within the framework of national legislation.

Kriel said there were many reasons crime was rising high, but the critical point was that sentences were too light.

"Serious murder deserves serious punishment. Serious rape deserves serious punishment. People who sell (drugs) and are busy destroying the lives of our young people and children, deserve serious punishment. They deserve the death sentence."

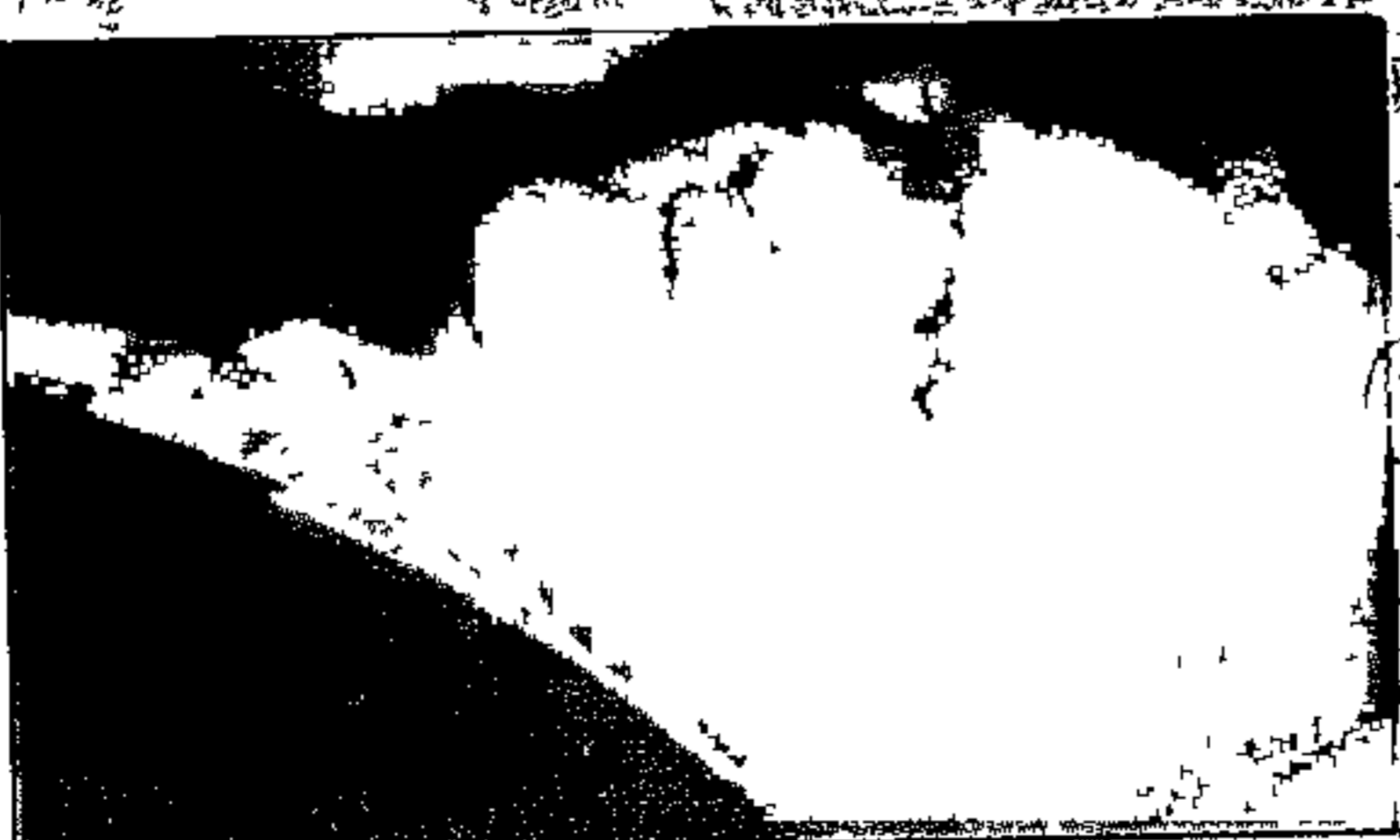
ET 28/10/97

The referendum results would be handed to the national government "to show them what the people of the Western Cape want". Kriel said.

His announcement — met with a standing ovation from delegates attending the congress at the Goodwood civic centre — reflects growing sentiment that the government should at least ask the opinion of the country's people about this sensitive matter.

ANC Women's League president Ms Winnie Madikizela-Mandela has made a similar call, flying in the face of ANC policy.

Also, the General Council of the Bar — the national advocates' body — recently told the Truth and Reconciliation Commission that it was of the view that the death penalty was "in violation of human rights".



NEW STANCE APPLAUDED:
Hennus Kriel

(2/2)

Bram Fischer

Bar apologises for 'great injustice' to (252) CT 28/10/1977



VINDICATED: Bram Fischer's name restored in honour

RONALD MORRIS

A "GREAT INJUSTICE" was done to leading advocate Bram Fischer when the Johannesburg Bar Council had him disbarred more than 30 years ago on political grounds.

The council acknowledged this in a submission by the General Council of the Bar (GCB) — a national advocate's body — to the current special sitting of the Truth and Reconciliation Commission on the legal profession. The council has now apologised to the family of Fischer, a promi-

nent member of the SA Communist Party at the time. It also wants his name restored posthumously to the Roll of Advocates.

Fischer started to practise as an advocate in 1935, and in 1951 was appointed Queen's Counsel.

The son of the judge-president of the Orange Free State and the grandson of the prime minister of the Orange River Colony, Fischer was also a Rhodes Scholar.

In 1964 Fischer and 13 others were charged with three counts of contravening the Suppression of Communism Act.

He was granted bail. During his trial he was given permission to leave SA for England to argue an appeal in the Privy Council. He returned to stand trial but months later failed to appear.

In a letter his counsel read to the court, Fischer said he could no longer serve justice in the way he had attempted in the past 30 years.

Two days later the Johannesburg Bar Council resolved to instruct its attorneys to prepare an application to court for the removal of Fischer's name from the roll of advocates for behaviour

unbecoming a member.

The Bar also wanted confidentiality in informing the minister of justice of the application.

Why the Johannesburg Bar Council thought it necessary to advise the minister confidentially was "surprising and unexplained", the GCB said.

On 4 February 1965, in another letter to his advocate, Fischer said the principle on which he had relied for absconding his trial was a simple, firmly established one.

"Since the days of the South African War, if not since the Jame-

son Raid, it has been recognised that political offences, committed because of a belief in the overriding moral validity of a political principle, do not in themselves justify the disbarring of a person from practising the profession of the law," he wrote.

He also questioned the haste with which his colleagues sought his expulsion.

The GCB said today, with hindsight, there was a different perspective "He acted not out of self-interest but from political and moral conviction. Far from securing any

personal advantage, he realised his actions would result in increased punishment."

The current Johannesburg Bar Council "believes a great injustice was done to him, and today can only apologise to his family. The judgment is not one it wishes to retain. Moreover, were it possible, (we) would support his re-admission to the Roll of Advocates."

It added "To this end, it would welcome the introduction of legislation to restore posthumously the name of Bram Fischer and others."

Apla believed security force frequented tavern

(252)

CAPE TOWN — The Azanian People's Liberation Army (Apla) targeted the Heidelberg Tavern in Observatory, Cape Town, because it was known to be frequented by security force members, a former Apla cadre jailed for his role in the machinegun attack claimed yesterday.

Luyanda Gqomfa is seeking amnesty for the 1993 attack in which four people were killed and five seriously injured. Gqomfa was jailed for 27 years in December 1994 for his role in the attack, for which Apla colleagues Zola Mabala and Vuyisile Madasi have also applied for amnesty.

Gqomfa told the truth commission's amnesty committee he and five other Apla members

planned and carried out the attack.

He said Apla intelligence sources established that the tavern was frequented by security force members. "They are the ones who wholeheartedly defended apartheid. They were a law unto themselves."

Gqomfa was questioned about former Pan Africanist Congress lawyer Dumisa Ntsebeza, now head of the truth commission's investigative unit, who had been implicated in the attack.

A witness has alleged a car registered in Ntsebeza's name was used as a second getaway car. Gqomfa denied he met Ntsebeza and denied that more than one vehicle was used in the attack — Sapa



Justice Minister Dullah Omar, left, made a late submission to the truth commission yesterday where he mapped out the future vision of the ministry he heads, while commission chairman Archbishop Desmond Tutu, right, listens intently

Picture TREVOR SAMSON

Judges under fire for refusing to take part

SA JUDGES were criticised yesterday for opting not to take part in the truth commission's hearings on the legal system's pivotal role in apartheid human rights abuses, Sapa reports.

SA Commission chairman Archbishop Desmond Tutu said at the opening of the hearings in Johannesburg that it would have been of symbolic significance if the judges came to give an account of themselves.

He said the judges, were faced with an important choice, and had made the wrong one.

In this regard they have shown that they have not yet changed a mindset that properly belongs to the old dispensation, which most of them have castigated so sharply in their submissions.

Tutu referred to various states of emergency and the security forces being given licence to torture people to extract confessions during detention. Few judges and magistrates, gave credence to victims when they were convicting them, he said.

For most of us it was all a travesty of justice and brought the law into considerable disrepute. And it is going to take quite a while to rehabilitate the law, for one of the strategies was to disobey unjust laws, and a culture of noncooperation, noncompliance, has developed, he said.

He said most judges were political appointments because they were believed to be broadly, or fundamentally, in sympathy with the National Party government and would therefore not question decisions of

government's executive arm. "They seemed to see themselves as part of the 'total strategy' versus the total onslaught, with little instinct for human rights and civil liberties."

Bonle Ngqyaza reports that a film producer has appealed to the truth commission to send a representative and a social worker to assess whether anything can be done for Dimitro Tsafendas, detained for the assassination of apartheid architect Hendrik Verwoerd.

At the judicial hearings in Johannesburg yesterday, Key Films producer Liza Key argued that evidence suggested that to some degree, the assassination resulted from racial victimisation of Tsafendas.

It was widely reported at the time of the assassination, but is largely forgotten today, that Tsafendas was the son of a coloured woman and, shortly before the assassination, applied unsuccessfully for reclassification from white to coloured.

Key was critical of the decision to imprison Tsafendas rather than place him in a mental asylum as would have been appropriate, and said this was without precedent. "It self-evidently represents a human rights abuse."

It was compounded, she said, by the fact he was placed in what was effectively death row and held there for nearly a quarter of a century.

By the accounts of other prisoners, he was treated abominably there. This was widely reported in the media, but not

ing was done about it by the authorities.

Keys stated a statement by former chief justice Michael Corbett who, in his submission to the commission, is reported to have said the description of Tsafendas as a "victim of apartheid" was bizarre.

She asked that steps be taken to ensure that the mentally ill were never again treated like Tsafendas. "The power is still there in section 28 of the Mental Health Act, enabling the minister to commit a state president's

patient to prison."

At the hearings, human rights campaigner Paula McBride criticised the death penalty and judges who implemented it while there was a choice of doing so.

"It seems obvious that, being a member of the judiciary, in a country with unjust laws, must, by definition, involve dispensing injustice," McBride said.

"There is lots of evidence that the apartheid judiciary did this to great effect," she told the hearing.

in truth body hearings (252) 08 28 10 197

Grenade blast was 'warning to Mangope'

BD 28/10/97

(282)

KIMBERLEY — The 1993 handgrenade attack on the former Bophuthatswana consulate in Kimberley was meant as a warning to Chief Lucas Mangope's government of the anger against repression in the former homeland, amnesty applicant Laurens Mbatha told the truth commission (TRC) yesterday.

Mbatha, with fellow African National Congress member Walter Smiles, is seeking amnesty for the Kimberley at-

tack, which left one person dead and several injured.

"The Umbo (University of Bophuthatswana) incident, where students were severely assaulted by Bop police, and repressive situations in places like Pampierstad and Taung, prompted an anti-Bop protest," said Mbatha. He was Umkhonto we Sizwe regional commander in the Kimberley area at the time of the incident.

He told the commission

amnesty hearing, chaired by Judge Bernard Ngoepe, right-wingers were mobilising against democratic transformation. The factors he listed compelled the oppressed people, led by the Congress of SA Students and the ANC Youth League, to mount a massive protest.

He admitted the grenade attack did not achieve its objective, and injured comrades who were part of the protest. Protester Ezekiel Lebogang

Mokone was killed and several other people were injured.

Mbatha, now a commander in the SA National Defence Force, said two ANC activists sentenced for the attack knew nothing about it. During the protest march he ordered Smiles to throw the grenade into the Trust Bank building, which housed the consulate.

Mbatha said he was saddened by Mokone's death and injuries to the others — Sapa

Community courts 'being considered'

David Greybe

(252)

BD 28/10/97

CAPE TOWN — The justice department was looking at establishing community courts to resolve disputes at local level, Justice Minister Dullah Omar said yesterday.

At the opening of the 11th Commonwealth Magistrates' and Judges' Association triennial conference, Omar said a major problem which had contributed to SA's culture of violence was the absence of mechanisms and procedures in communities to resolve disputes.

"In other words a major problem for communities throughout SA is the absence of access to justice," Omar said.

It was decided to make broader community participation in justice a principle of government, Omar said. But this would not come easily — it was not a single event but a process.

"Hence we are looking at proposals to establish community-based dispute-resolution structures — some call them community courts — which will make use of mediation and other alternative dispute resolution mechanisms to resolve disputes and problems."

Omar said SA should move progressively towards the creation of a single judicial system. Unfortunately, he said, "there is and always has been a pronounced dichotomy between judges

and magistrates"

The two came from different backgrounds and had completely different paths and public images.

"High Court judges have been referred to as being part of the judiciary and magistrates as part of the magistracy," Omar said. The implication was that magistrates were not part of the judiciary.

"I myself believe that we should move progressively towards the creation of a single judicial system," Omar said.

However, it was not possible to break instantly from the legacy that historically all magistrates were drawn from the ranks of prosecutors.

Omar said a criticism of the system was that magistrates were more prosecution-minded than High Court judges, who were normally drawn from the ranks of senior judges. As a result, civil adjudication had suffered at the magistrate's court level.

Omar said the issue was being addressed. Hopefully the introduction of judicial training programmes, with better court and case management, would raise the quality of civil adjudication. The justice department was also studying proposals to allow for appointments to the magistrates' bench from the ranks of lawyers — especially in the civil courts.

B
D
M

Apla man describes attack on tavern

APLA 28/10/97 (252)

One of the three Azanian People's Liberation Army (Apla) members seeking amnesty for the attack on the Heidelberg Tavern in December 1993 said he had entered the pub and emptied the magazine of his R4 rifle at patrons before firing a rifle-grenade.

The grenade, which had wire nails glued to it in an attempt to inflict more casualties, failed to explode. Vuyisili Madasi told the Truth Commission's amnesty committee today he did not know why the grenade he had launched had not detonated. "I have no explanation," he said.

Evidence yesterday by Madasi's Apla colleague and fellow amnesty applicant Luyanda Gqomfa was that the pub had been targeted because Apla intelligence sources had said it was used by members of the apartheid government's security forces.

Asked whether any of the patrons in the pub had appeared to be security force members, Madasi said he had already been shooting as he entered the pub. "Their (the patrons') hair was straight but I cannot say about their colour. I cannot say precisely what sort of people they were - they could have been coloured, they could have been white.

"I was just ordered to get there and shoot. I was not told who was going to be there."

Madasi, Gqomfa and Zola Mabala, who are all serving long jail sentences, are seeking amnesty for the attack on the pub which left four dead and five more seriously injured or maimed.

At the start of today's hearing Gqomfa acknowledged in response to questions that he had also applied for amnesty for other incidents. They included the fatal attack on a motorist on the Zastron bridge on the Eastern Cape border in March 1992, an arson attack on a farmhouse at Lady Grey in the Eastern Cape, also in March 1992, an armed robbery on a bottle-store in Cala, Transkei, in October 1992, and an attack on the Umtata police station in July 1992.

Gqomfa also said he had applied for amnesty for three separate attacks in Transkei between 1991 and 1993 in which individuals had been killed. He said one of these incidents related to conflict between the African National Congress and the Pan-Africanist Congress.

Face to face and a world apart

Bitter clash as Tavern victim meets attackers

(252)

ART 28/10/97



ON THE TRUTH COMMISSION

The way apartheid divided South Africans was starkly illustrated at the amnesty hearing into the Heidelberg Tavern massacre yesterday as victim and perpetrator came face to face - and confronted each other with opposing perspectives on the attack.

Quentin Cornelius was enjoying a drink at the Observatory pub with friends on December 30, 1993, when Azanian People's Liberation Army (Apla) cadres launched their attack with AK-47 and R4 rifles, handgrenades and a rifle grenade with wire nails glued to it (which failed to explode)

There is a dispute about whether any of the six Apla men involved actually entered the pub to shoot indiscriminately at the patrons inside, but by the end of their attack Mr Cornelius was so severely injured that he is now confined to a wheelchair and in permanent pain

Two of his companions were among the four dead, and another five were severely injured.

Yesterday Mr Cornelius manoeuvred his wheelchair to the microphone during the amnesty hearing for three of the Apla men involved - Humphrey Luyanda Gqomfa, Vuyisile Brian Madasi and Zola Prince Mabala - and asked each of them to explain whether there had been any logical reason for the attack

He pointed out that it had come after Codesa negotiations for the interim constitution had been finalised and less than four months before elections for South Africa's first democratic government

In an emotional plea, he asked why "young, cheerful, innocent students" had been subjected to a terrorist attack at that point in South Africa's history

"Why did you have to continue (the attack)? Could you not think for yourselves?" he asked

Gqomfa, who is serving a 27-year jail sentence, said Mr Cornelius referred to him as "a terrorist" because of his (Mr Cornelius's) upbringing and "indoctrination"



Loss: Ginn Fourie, whose daughter Lindy-Anne was killed in the attack



Victim: Michael January, who was disabled

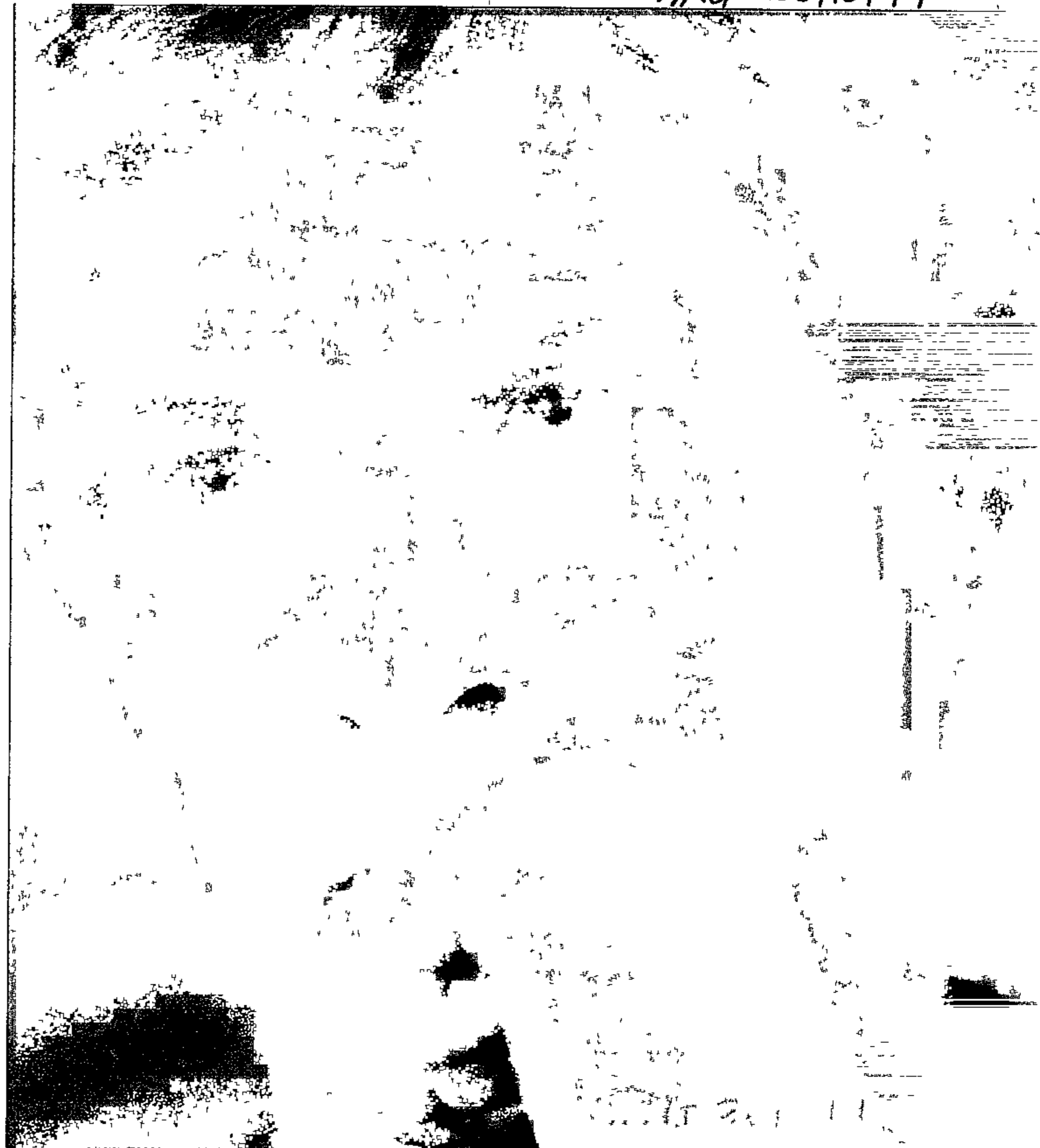
"I am not a terrorist - I am a freedom fighter," he stated Mr Cornelius did not understand what it had been like to be politically oppressed, Gqomfa continued. "It is because he did not feel the pain we were under"

He added that Apla had been under the political leadership of the Pan Africanist Congress (PAC) which had not suspended its armed struggle, even at that late stage "We were the soldiers our political leadership had not given the order to stop fighting"

Gqomfa said he sincerely regretted the loss of life in the attack and apologised to the victims and their families "I wish to ask them for their forgiveness"

But during questioning by the commission's leader of evidence, Patrick Prior, Gqomfa repeatedly stated that he had not questioned his orders in any way and had not been concerned who was in the pub at the time of their attack

"I perceived the orders as being correct, I had to carry them out, no matter what . (the order)



Painful memories: Quentin Cornelius, confined to a wheelchair after being injured

LEON MUI



Seeking amnesty: Apla members, from left, Vuyisile Madasi, Luyanda Gqomfa and Zola Mabala

was to kill anything that lived inside that tavern . If you are given an order, it is not about how you feel or what you perceive You do not question orders," he said

Earlier there was a tense silence in the hearing room as a police video recording of the interior of the tavern after the attack, including close-ups of dead

victims, was shown The three amnesty applicants watched seemingly emotionless, but several victims and their families wept silently The hearing continues today

Judges may be forced to testify before TRC

(252)

Chief Justice says judiciary fears losing its independence

Star 29/10/97

By Robert Brand

The Truth and Reconciliation Commission (TRC) is to discuss the possibility of subpoenaing judges should efforts to persuade them to testify voluntarily fail.

Commissioner Yasmin Sooka, who is co-ordinating the TRC hearing into the role of the judiciary during apartheid, yesterday said TRC chairman Archbishop Desmond Tutu would engage in further discussions with judges about their reluctance to testify.

Should they still refuse, the commission may consider issuing subpoenas, Sooka said.

A number of judges have made written submissions, but not one has agreed to testify.

Chief Justice Ismail Mahomed told the TRC judges feared their independence would be compromised if they had to account for their actions.

One of the judges who has made a written submission, Supreme Court of Appeals Justice Louis Harms, told The Star last night: "The constitution guarantees the independence of the Bench. If judges now have to account before a commis-

sion, what prevents the Government from appointing another commission next year to call judges to account?"

Harms said he would be prepared to assist the commission with any information he had at his disposal.

Testifying yesterday, Association of Law Societies (ALS) president Ashwin Trikamjee called for a widening of the responsibilities of the Judicial

The bench should not escape scrutiny

Services Commission (JSC) to include the power of reviewing the performance of judges.

He said the Bench should not escape public scrutiny.

"The powers of the JSC should be increased so that it could consider complaints against members of the Bench. The performance of the Bench at all times should be subject to some kind of review," he said.

The JSC is charged with in-

terviewing judicial candidates and advising the president on the appointment of judges.

Both the ALS, which represents attorneys, and the General Council of the Bar of South Africa (GCB), the advocates' professional body, yesterday apologised for not doing enough to prevent human rights abuses under apartheid.

"On behalf of the ALS we tender our sincere apology to the multitude of people whom we may have been able to help had we acted positively," Trikamjee said.

Although the ALS protested against the systematic erosion of the rule of law, the protests were "tentative at best".

The GCB said it was for the commission to judge its record in preventing or contributing to the violation of human rights during apartheid.

Former GCB chairman Jules Browde said the Johannesburg Bar Council had resolved not to retain the judgment in terms of which the late SACP leader Bram Fischer was struck from the roll of attorneys. He apologised to Fischer's two daughters, Ruth and Ilse, who were at the hearing.

HEIDELBERG AMNESTY PLEAS

'We sang freedom songs before killings'

ET 29/10/97 (252)

'IT IS TIME for you to face us and ask us directly for forgiveness,' the mother of one of the Heidelberg tavern shooting victims told an amnesty applicant yesterday.

SIX Azanian People's Liberation Army (Apla) members sang freedom songs minutes before shooting dead four people at the Heidelberg Tavern in December 1993, the Truth and Reconciliation Commission heard yesterday.

"We were singing freedom songs in the car. This is what our forefathers would do. They would sing songs of war before they went into battle," Vuyisile Madasi told the TRC's amnesty committee in Cape Town.

Madasi and two other former cadres, Zola Mabala and Humphrey Gqomfa, are applying for amnesty for the attack, for which they received jail sentences ranging between 18 and 27 years.

Madasi said he regretted the loss of life and asked the families of

his victims to forgive him.

"I know that forgiveness is no small matter, but if the person is asking for forgiveness then they mean it."

His plea came after a meeting with Mrs Clarissa January, the mother of one of his victims, Michael January, who was disabled.

"I understand a great deal about your suffering," January told him.

"We have also suffered. It is time for you to face us and ask us directly for forgiveness."

"I am glad to meet you," Madasi replied.

"You perhaps look at me and think I am not showing remorse

However, our families know us well. They would tell you how much remorse we are experiencing. If we did not, we would not be here at this moment."

Ms Andrea Langford, the mother of shooting victim Bernadette Langford, asked Madasi why he had continued with the attack when he saw his victims were not security force members as expected, but young students.

"I am a soldier. I was given an order. I was taught one thing — to obey these orders," Madasi replied.

"I know that nobody has the right to take some-

body's life. However, the conditions we lived under led to such incidents."

In earlier testimony, Madasi told how he had emptied his R4 automatic rifle at patrons — Sapa

'Our forefathers would sing songs of war before they went into battle.'

Tavern attacker confesses to crimes

CAPE TOWN (252)

One of the Azanian People's Liberation Army members seeking amnesty for the 1993 Heidelberg Tavern attack in Cape Town has confessed to other crimes, including murder, arson and armed robbery.

Luyanda Gqomfa yesterday told the truth commission's amnesty committee he had applied for amnesty for seven incidents. However, mystery surrounds the whereabouts of the applications since the commission appears to have a record of only one of them.

Gqomfa received a 27-year jail term for his part in the Heidelberg shooting in which four people were killed and five injured. He is appearing before the

amnesty committee in connection with the military-style assault on the suburban pub in Observatory, Cape Town.

The missing applications were for an arson attack on a Lady Grey farmhouse, the fatal shooting of a motorist on the Zastron Bridge, a raid on the Umtata police station, the armed robbery of a bottle store in Cala, Transkei and the murder of a Qumbu man, killed in a clash between African National Congress and Pan Africanist Congress supporters between 1991 and 1992. Gqomfa said he had taken part in two other murders, in 1992 and 1993, in Engcobo and Mount Frere in the Transkei — Sapa

Attack 'embarrassed ANC'

BD 29/10/97

KIMBERLEY — The African National Congress (ANC) did not approve the 1993 handgrenade attack on the Bophuthatswana consulate in Kimberley, amnesty applicant Laurens Mbatha said yesterday

(252)

He told the truth commission that the attack, in which Congress of SA Students member Ezekiel Mokone died, was unfortunate and became an embarrassment to the ANC

Mbatha said the grenade, thrown while protesters handed a memorandum in at the consulate after a march organised by the Congress of SA Students and African National Congress Youth League to demand reincorporation into SA, struck a security official in the face, rolled back and exploded in the crowd, killing Mokone and injuring more than 40 people

Mbatha, at the time a commander

in ANC armed wing Umkhonto we Sizwe, said he did not seek approval from the ANC leadership for the attack, but used his own initiative

"Mobilisation by right wingers in the area also prompted the resolution to carry out the action," said Mbatha, a major in the SA National Defence Force, on the second day of his amnesty application.

He agreed that the ANC was a signatory to the national peace accord, and that the ANC leadership in Kimberley had committed itself to ensuring the protest march would be peaceful

Apologising to Mokone's family, Mbatha told the commission that the brutality of the homeland regime against ANC activists, the lack of free political activity and increasing mobilisation by right wingers, prompted his decision to attack the consulate

Law body 'could have done more'

BD 29/10/97

(252)

Bonile Ngqiyaza

THE Association of Law Societies admitted yesterday before the truth commission that it could have done more to confront apartheid, and apologised for having not done so

The commission is investigating the role the legal system played in contributing to the violation of human rights, as well as possible institutional changes that could prevent the abuses of the past from reoccurring

Society president Ashwin Trikamjee told the commission the country's system of parliamentary sovereignty meant laws made by Parliament bound the legal profession, its institutions and practitioners as completely as they bound any other entity

"The effect of these teachings, at the apogee of apartheid, was to foster an ethic of obedience," he said

The association, he said, protested against much of the unjust legislation passed during that time, even though the results were largely unsuccessful

Trikamjee said it was not surprising in the light of the repressive and dis-

criminatory laws of the country during the period under scrutiny that resistance movements among the non-white members of the legal profession should have arisen

"The (society) was strongly believed to have aligned itself with the government of the day whose policies had in effect cast non-white practitioners aside and made it difficult for them to practise their profession freely and without hindrance"

In its submission to the commission, the campus law clinic of the University of Natal-Durban suggested that serious attention be paid to restructuring the justice department along with the legal profession as a whole

It said the justice training college — the major training ground for justice personnel — had not shown a significant increase in the intake of people of colour "It is also sad to note the low number of women in the department"

The clinic said law degree courses ought to be re-examined and modified to ensure that more black students emerged from university with the ability to practice effectively

Local business has profited from the

IN A recent editorial (Striking the right note, October 20), Business Day suggested Saboc could have been less complacent in its truth commission submission on business and apartheid. Business Day is being exceedingly generous.

Over the past few years, complacency about the past has been the hallmark of many business circles. On occasion, this borders on the grotesque.

Last year, for instance, the Financial Mail, had the following "joke" in its Did You Hear? column "Scheduled SABC2 coverage of the truth commission was dropped on Sunday and was replaced with a programme called Circus on TV. Did anyone notice the difference?"

Not every business person in SA can be held responsible for the previous FM editor's moral lapses. However, I suspect this little "joke" is not entirely unrepresentative. Apartheid had complex social origins, it would be wrong to blame it all on capitalism. However, the contrary perspective, that capitalism was organically inimical to racial oppression in SA, is absolutely fanciful. The mining houses played a central role in laying the foundations of systematic racial oppression in the context of an industrial society.

In 1912 the president of the Chamber of Mines complained that "the tendency of the native is to be an agriculturalist. He cares nothing if industries pine for want of labour when his crops and home-brewed drink are plentiful." He had a remedy "What is want-

Business played a central role in racial oppression in SA, says deputy general secretary of the SACP Jeremy Cronin

is surely a policy that would establish once and for all that outside special reserves, the ownership of land must be in the hands of the white race."

The next year, the notorious 1913 Land Act was passed. It was the mining houses who pioneered the prison-like compound system. The world class innovator was De Beers in Kimberley, where the company first experimented with convict labour. In 1885, the inspector of diamond mines enthused "In these convict barracks the perfection of the compound system may be said to have been reached."

It was also mining houses that pioneered the racialised, contract labour system, and that pressed for the refinement, extension and tightening up of the pass laws.

I know I will be told that this was all "very long ago." But this past oppression garnered huge profits that continue to be the basis of the vastly unequal distribution of power, privilege and wealth in our society today. Past coercion goes on earning compound interest. However, the complexity of business in racial oppression is not just a distant historical fact with present-day consequences. The AHI submission to the commission, admittedly a more sensitive document than Saboc's, is outrageous in its claim that Afrikaner businesses did not benefit from the NP regime. It was Sanlam's AD Wassenaar who noted how the NP

government had used the state-owned IDC and other parastatals "to strengthen Afrikaner participation in the industrial progress of the country."

White-owned small and medium-businesses, many of them owned by Afrikaners, moved smartly into the trading vacuum created by the group areas re-movals in the 1950s and 60s. White-owned commercial farms acquired an extra 106 303ha of farming land between 1960 and 1978, as a result of the dispossession of black farmers from black and mission-owned land outside the reserves. In close co-operation with the apartheid regime, white farmers used convict labour extensively.

The Theron commission in 1976 estimated that about 13% of farmers used prison labour. The number of prisoners on farms in the 1970s and early 1980s was around 100 000 at any one time. Many of these press-ganged labourers were simply technical pass law "offenders."

But it was not just Afrikaans capital, or farming capital, that was heavily implicated in the apartheid system. A large part of the private sector was deeply complicit in the militarisation of our society under PW Botha's Total Strategy. In 1987 the Armscor CE told this newspaper that 975 companies were directly supplying Armscor. This figure does not include subcontractors. A US researcher in 1988 estimated that

there were about 3 000 private sector subcontractors to Armscor.

Many of these companies did little more than act as willing conduits for the SADF to smuggle in international arms and technology, bypassing the UN arms embargo. Leading business people were willing participants in the national security management system and in the defence manpower liaison committee. Far from objecting to the apartheid regime and its destabilisation of our region, business reaped huge profits from it.

No doubt this helped to motivate the aiding and abetting of the process as well. In 1988 it was estimated that "most private companies" were making up the difference in the salaries of conscripted white males. As many as one-fifth continued to pay full salaries to conscripts, although there was no legal obligation to do this.

Yes, there were points of difference between the apartheid regime and its private sector accessories. Very often these had little to do with morality. As Harry Oppenheimer put it in 1985 "Nationalist policies have made it impossible to make proper use of black labour."

Some leading business people in the 1980s fundamentally shared the NP's repressive reform agenda. Gavin Relly said he was "not in favour of one-man, one-vote in SA" because it "would simply be a formula

for unadulterated chaos".

Anton Rupert agreed "We have to find a solution that won't end up giving us one man, one vote."

Leading business people expressed support for the states of emergency. Relly, in 1987, said "the imposition of the state of emergency, and its recent renewal, though regrettable, were necessary". Trust Bank, the next year, echoed these views "The damper put on sociopolitical instability by the security forces has definitely played a role in the recently improved performance of the economy."

Private sector "developmental" projects often had a very cynical agenda. Fred du Plessis of Sanlam spoke in 1988 of the need to deliver economic benefits to an emerging black elite in order to blunt political aspirations. He envisaged "a situation where people 10 years from now feel things are going so much better for them that they do not feel anxious about political power."

FW de Klerk's sense of humour sometimes betrays more than it realises. Last year, at a breakfast meeting of the American Chamber of Commerce in Johannesburg, De Klerk referred proudly to SA's financial sector, with its five large conglomerates. In its level of sophistication it was unequalled in Africa. "People talk a lot about a third force," De Klerk quipped, "but the real third force is the private sector."



CRONIN

apartheid years

Tavern attacker admits earlier hotel bar killing

APC 29/10/97

Apla soldier Vuyisile Madasi, who is applying for amnesty for the Heidelberg Tavern attack, is also seeking it for a March 1993 attack on the Yellowwood Hotel in Fort Beaufort in the Eastern Cape.

A Port Elizabeth Technikon student, 19-year-old Johan Jerling, who was sitting at the bar, was shot dead during that attack. Three friends who were playing darts nearby were unharmed.

They were the only customers in the bar, which was unusually quiet for a Saturday night, because most of the usual patrons were at an agricultural show nearby.

The attack prompted the then National Party government to warn that "cold-blooded" attacks on whites could have serious implications for the negotiation process then in progress.

The Azanian People's Liberation Army (Apla) was the armed wing of the Pan Africanist Congress (PAC).

PAC executive member Barney Desai, who was asked soon after the Yellowwood Hotel attack why the PAC

would not sign the Peace Accord and suspend its armed struggle, replied that violence would be solved by democracy and not by the Peace Accord.

"If there's a transitional authority in June, you'll have the end of the armed struggle from the PAC," he was quoted as saying. Asked if he was also speaking for Apla, he said he was.

The Transitional Executive Council came into being in the first week of December 1993 - four weeks before the Heidelberg Tavern attack. Madasi's amnesty application for the Yellowwood Hotel incident will be heard at an as yet unspecified date.

In his amnesty application for the Heidelberg Tavern attack, he said he had carried out orders from his Apla commanders - who had included director of operations Letlapa Mphahleleke.

"I, however, believed in the armed struggle being waged by Apla and that is why I joined Apla to become a soldier. As a black person I was oppressed by white people who had taken our land, our dignity and our pride," he said.

'No regrets' for city pub atrocity

Man who ordered the attack won't say sorry



Pub attacker: Vuyisile Madasi tells the Truth Commission that Apla cadres sang on their way to the Heidelberg Tavern

5-111 77
(252) ARG 29/10/97

Azanian People's Liberation Army (Apla) director of special operations Siphosile Bulelani Xuma told the Truth Commission's amnesty committee today that he had ordered the attack on the Heidelberg Tavern - and that he did not regret such operations by Apla or have anything to apologise for.

Mr Xuma was notified that he could be implicated during this week's amnesty hearing about the attack on the Observatory pub on December 30, 1993.

Three Apla members - Humphrey Luyanda Gqomfa, Vuyisile Brian Madasi and Zola Prince Mabala - are applying for amnesty for the attack in which four people died and five were seriously injured. They are all serving long jail sentences.

Mr Xuma's statement was submitted during cross-examination of Mabala. In it, he said Apla's leadership took full responsibility for all operations by Apla "combatants".

"The Apla combatants who carried out the Heidelberg Tavern operation followed directives, and these directives were from the highest echelons of the military leadership, of which I am one. We do not regret that such operations took place and therefore have nothing to apologise for."

He said the three amnesty applicants had been given "clear and loud" orders to conduct attacks in Cape Town and that they had been supported logistically and financially by Apla's high command.

"Suffice it to say that the Heidelberg Tavern was attacked as a result of orders given by me in my capacity as Apla's head of special operations."

"According to an intelligence report prior to the attack, we learnt that the Heidelberg Tavern was a regular relax inn (sic) for some South African Police members."

Mr Xuma said he had been personally responsible for the organisation and

YIELD



ON THE TRUTH COMMISSION

deployment of arms and ammunition for Apla between 1990 and 1993.

He said the "militarisation of South African society" had effectively made all whites "members of the security establishment" and it had been in this context that targets like the Heidelberg Tavern had been selected.

"It should be noted that the killing of genuine African civilians (had) intensified. Africans were being brutally massacred whilst the white community lived in tranquillity."

"The decision was aimed at carrying out legitimate reprisals and forcing the regime to end the killing of African people."

■ Apla members on their way to attack the Heidelberg Tavern sang songs because this was what their forefathers would have done "in similar circumstances", the Truth Commission's amnesty committee was told yesterday.

One of the six Apla men involved in the atrocity, Vuyisile Madasi, testified during his amnesty hearing yesterday that the attack on the pub had not been a mistake even though the building had been full of unarmed young people enjoying themselves.

Responding to a question by amnesty committee member Ntsiki Sandi, on whether they had discussed the attack on their way there on December 30, 1993, Madasi said: "We were singing in the car."

"This is what our forefathers would do - they would sing of war before going into battle."

Political storm erupts over death penalty call

Foes accuse Kriel of election ploy

ASHLEY SMITH AND GIVE SAWYER
STAFF REPORTERS

A ferocious war of words has erupted between the National Party, the African National Congress and the Democratic Party over Western Cape Premier Hennis Kriel's proposed referendum on the death penalty.

Mr Kriel's announcement that a provincial referendum would be held next year on the reinstatement of capital punishment has mobilised the DP and the ANC against him.

Both rival parties have accused Mr Kriel of "playing party politics" to sway public emotion in favour of the NP ahead of the 1999 elections.

In a scathing attack on Mr Kriel, the ANC has accused him of trying to bolster his party's "disintegrating" image by calling for the referendum.

The DP attacked Mr Kriel for "playing with this smokescreen of a referendum" without doing something concrete about crime in the Western Cape.

However, DP spokesman Douglas Gibson conceded "most voters favour the death penalty".

"He (Mr Kriel) has forgotten that he co-authored the constitution, which outlawed the death penalty. The NP failed to veto this clause when they had the power - now they want to change it when they do not have the power," he said.

Mr Kriel replied that there was no doubt that people in South Africa wanted the death penalty brought back.

ANC spokesman Rennie Mamoepa said Mr Kriel's proposed referendum on the death penalty for the Western Cape would be "of no legal or constitutional consequence".

"We can only assume that

Kriel's move in this regard is simply an election ploy geared towards bolstering the image of his gradually disintegrating political party which, according to recent surveys, is suffering a haemorrhage in support and confidence among the people."

The ANC questioned the wisdom of the Western Cape government using taxpayers' money on "party political engineering processes" rather than spending it on the provision of basic and essential services and upgrading infrastructures in communities, Mr Mamoepa said.

"The ANC respects and abides by the decision of the Constitutional Court to outlaw the death penalty in line with the provisions of the Bill of Rights."

In this regard, no provincial government, including the Western Cape government, could introduce legislation that overrode decisions of the Constitu-

tional Court, or amend the national constitution, he said.

Mr Gibson said Mr Kriel had conveniently forgotten he was minister of police when the NP ended the death penalty in 1990.

"Mr Kriel is playing party politics because he knows President Nelson Mandela has refused to change the constitution. A referendum in the Western Cape cannot change that."

Mr Kriel said the ANC leadership was well aware of its own philosophy which stated that "the people shall govern".

"If we want the death penalty in the Western Cape and central government does not want to impose it then it is a sign of bad government."

IFP chief whip Koos van der Merwe said the IFP had called repeatedly for a referendum on the topic.

Editorial comment, Cape Points, p15

AKS 29/10/97

(252)

Amnesty group claims justice losing credibility

International body tells TRC acquittal of Malan and 19 others has sapped confidence

By ANSO THOM

massacre.

People have lost confidence in the criminal justice system's capacity to deal with KwaZulu Natal's political violence, especially since the acquittal of those accused of involvement in the KwaMakhutha massacre, Amnesty International told the Truth and Reconciliation Commission yesterday.

Former defence minister General Magnus Malan and 19 others were charged last year with murder and conspiracy to murder following the 1987 massacre of 13 people in the township near Durban.

Earlier this year Amnesty International held an inquiry into the controversies which surrounded the conduct and motivations of the Attorney-General, advocate Tim McNally, who prosecuted the accused in the trial.

AI historian and human rights researcher Mary Rayner, who made the submission, yesterday was also questioned by McNally who said he had not been given sufficient time to prepare his response to the claims.

Rayner said police in KwaZulu Natal had a poor reputation as investigators. She said the AI investigation also found that the Investigation Task Unit (appointed by Safety and Security Minister Sydney Mufamadi) described their relationship with McNally as difficult.

The three lawyers on the Investigation Task Board, which the ITU reported to, also experienced difficulties in working with McNally, according to AI.

Rayner said McNally had in the face of growing discontent with his methods, taken the decision to indict senior military, police and political figures on charges relating to the

The conflict which developed between the A-G and the ITU and ITB seems to partly have arisen through differences in approaches to the investigation and prosecution of crime.

"By its very nature, the ITU broke down the traditional divisions of labour by providing police investigators with legal supervision and advice on an ongoing basis," Rayner said.

She said that in the Malan case the presiding judge repeatedly drew attention to the State's failure to call certain witnesses in connection with the alleged conspiracy and to lead evidence either on the nature of the military training which had been provided by the Defence Force in Caprivi to some of the

A-G is adamant no more evidence useful

accused.

"Members of the ITU and ITB were adamant in their comments that the failure to call these witnesses was contrary to their advice and that, at all relevant times, they had been in a position to produce these witnesses when called to give evidence."

McNally, however, was adamant yesterday that the witnesses would not have advanced the case against Malan. "These witnesses would have taken our case nowhere," he told the commission.

He denied that the ITU and ITB had been marginalised.

"I worked with them at all times. Tim McNally did whatever was asked of him," he added.

CHIEF INVESTIGATOR 'VICTIMISED'

Confusion over claim about getaway car

A WITNESS says that after the Heidelberg Tavern attack he saw two armed men get into a car owned by TRC chief investigator Dumisa Ntsebeza. **ROGER FRIEDMAN** reports.

cf 30/10/1997 (252)

AWYERS attempting yesterday to clarify whether a car belonging to Mr Dumisa Ntsebeza was somehow connected to the Heidelberg Tavern attackers had about as much effect as persished wipers on an oil-splattered windscreen. Little was clear.

Ntsebeza's legal representative, Ms Christene Qunta, suggested that her client (and law firm partner) was being "victimised" by being labelled an "implicated person" on the basis of "uncorroborated evidence", the head of the Truth and Reconciliation Commission's amnesty committee, Mr Justice Hassen Mall, said he failed to "see the relevance" of Ntsebeza's presence before the committee, and there was total confusion about where Ntsebeza's car was or was not seen on the night of the attack

by alleged eye-witness Guguletu gardener Mr Bennett Sibaya

Qunta's cross-examination of Sibaya — who says he saw heavily armed men get into Ntsebeza's car in Guguletu shortly after the Tavern attack — continues today

The amnesty committee is hearing the applications of Vuyisile Madasi, Luyanda Gqomfa and Zola Mabela, who are serving lengthy prison sentences for the Heidelberg attack in which four people died and six were seriously wounded

The three have denied knowing Ntsebeza or using any white car on the night of the attack

Ntsebeza is a TRC commissioner and head of its investigative unit and has on occasion filled in for Archbishop Desmond Tutu and his deputy, Dr Alex Boraine, as acting chairperson

He recused himself from the Heidelberg Tavern investigation after being confronted with the allegation about his car by a member of his investigative staff. He reported the matter to Tutu and Boraine, and instructed that the investigation should continue

Sibaya says he was in the streets of Guguletu just after midnight on December 30, 1997 with a friend, in the friend's minibus taxi, when they came upon a white Audi. He says he saw five heavily armed young men emerging from a nearby dark vehicle, two of whom got into the white car which sped off

He memorised the white car's number plate — and also picked up a map to the Heidelberg Tavern which one of the men had dropped. He reported this to the police — who accused him of being drunk and threw the map in a bin. His friend with the minibus taxi, a Mr Mazhubuko, was apparently killed in Khayelitsha three weeks after the Heidelberg attack



CAR ALLEGATION: The head of the TRC's investigative unit, Mr Dumisa Ntsebeza, has been attending the amnesty proceedings of the Heidelberg Tavern attackers this week to answer allegations that they may have used one of his cars **PICTURE: BENNY GOOL**

Odds against Kriel's WC gallows poll

CLIVE SAWYER
PARLIAMENTARY BUREAU

Why voters did not call for death penalty

CP 30/10/94

(252)

GOVERNMENT lawyers are being consulted in an urgent effort to nip in the bud Western Cape Premier Mr Hennus Kriel's attempt to hold a provincial referendum on bringing back the death penalty.

On the face of it, the Constitution stacks the odds heavily against Kriel's referendum plan ever seeing the light of polling day, or proving to be anything more than the political stunt its critics have labelled it.

Announcing the plan this week, he invoked section 127(2)(f) of the Constitution.

This section, which deals with the powers of premiers, says they may call a referendum in the province — in accordance with national legislation.

This last qualifier, which Kriel omitted from his announcement, could prove the downfall of his plan.

That is the view of well-placed central government sources, and of Mr Henne Bester, Democratic Party provincial MP and chairperson of the province's constitutional committee.

No legislation has been approved since 1994 to regulate referendums, leaving government to fall back on the still-valid, if perhaps anachronistic, 1983 Referendum Act.

This act, passed to accommodate the whites-only referendum on the tricameral parliament, says that only the state president may call a referendum, even one to be held only in a limited area.

This seems argument enough, given the political unlikelihood of President Mandela agreeing to a referendum on the topic, against Kriel's request getting any further than a terse refusal from Tuynhuys.

Government lawyers were also understood to be looking into another question whether Kriel could call a referendum on an issue which is beyond the jurisdiction of provincial government, as justice clearly is.

These constitutional provisions seem to seal the death-warrant for Kriel's plan.

The national executive body, the council headed by the President (GCB) has accepted the reintroduction of the death penalty and approval of Constitutional Council ruling of the executive on the 1994 referendum.

It is very unlikely that a referendum on the death penalty should be held before the end of the year. The referendum should be held after the 1995 election.

Kriel's plan, announced after the Cape Premier reported that in its referendum to the South and President Bester's comments on the act, and did not see that the referendum is a violation of the human rights.

It is not clear if the referendum is a violation of the human rights. The referendum is a violation of the human rights.

He believes, based on legal advice, that the death penalty is not inconsistent with the bill of rights.

But even this legal advice may prove futile, given that the Constitutional Court shows no sign of reversing its landmark judgment of 1995 which held capital punishment incompatible with the right to life.

Anyone caring to speculate about what would become of Kriel's referendum results, should the President decide to indulge him by agreeing to the poll, would quickly see that the effort would die in the wasteland of political reality.

In the face of the Constitutional Court ruling, Parliament would be unable to pass legislation bringing back the death penalty without amending the bill of rights, a scenario unlikely in the extreme given the African National Congress' firm stance on the issue.

It is equally impossible for the Western Cape to bring back the death penalty within its own borders.

The abolition of the death penalty is a right in the Bill of Rights of 1996 and the Constitutional Court of 1995.

Thus, a very few of the standard abolition and the abolition of the death penalty are not a violation of the Bill of Rights of 1996.

It is not clear if the referendum is a violation of the human rights. The referendum is a violation of the human rights.

That is, but the referendum is a violation of the human rights. The referendum is a violation of the human rights.

Ntsebeza car: Independent probe urged

JOHN YELD

ON THE TRUTH COMMISSION

(252)

ARG 30/10/97

The allegations against Truth Commissioner Dumisa Ntsebeza – that his car was used as a second “getaway” vehicle by the Heidelberg Tavern attackers – were so serious that they should have been investigated by an outside agency, the commission’s investigative unit has recommended.

But this recommendation, put to commission chairman Desmond Tutu by the unit’s national director Glenn Goosen, was rejected because the police had known about the allegations for more than four years and had done nothing about them.

Archbishop Tutu’s response to Mr Goosen, released to the media several days ago, was that the police had been in possession of the statement by a witness, claiming he had seen Mr Ntsebeza’s car being used by Apla members just after the pub atrocity on December 30 1993, since early January 1994.

Archbishop Tutu confirmed today that the report from the investigative unit had suggested calling in an outside investigator.

Ntsebeza witness accused of ‘fabrication’, page 6

Gardener denies pub blast link 'fabrication'

Witness grilled on Ntsebeza's car

Gugulethu gardener Bennett Sibaya, who told police he had seen a car later identified as belonging to Truth Commissioner Dumisa Ntsebeza being used by gunmen soon after the Heidelberg Tavern attack, was today accused of fabricating his whole story.

This was suggested by Mr Ntsebeza's legal representative, Christine Quira, during an amnesty application for three Azanian People's Liberation Army (Apla) members for the attack on the Observatory pub on December 30 1993 in which four people died and five were seriously injured.

Mr Sibaya claims to have gone to Gugulethu police station soon after the late-night attack to report seeing five men transferring weapons from one vehicle to another - a white Audi with Umhata registration plates, later identified as belonging to Mr Ntsebeza - in Gugulethu soon after the attack on the pub.

He also said he had picked up a piece of paper that had fallen out of the Audi which proved to be a diagram showing the route to the Heidelberg Tavern.

He said police had accused him of being drunk and had chased him away after tearing up the map and throwing it away, although they had recorded his name and address.

He had been visited by detectives and on January 5 had made a state-



JOHN YELD

ment to police about the incident. This statement was found in security police files by Truth Commission investigators this year.

During today's hearing, Mr Sibaya struck firmly to his story in spite of rigorous cross examination by Ms Quira.

She challenged him on various inconsistencies between his original statement to the police and his statement this year to commission investigators and suggested he had been "primed" by someone about what he should put into the statement.

"I am going to put it to you that the diagram is a figment of your imagination at best or you were instructed to fabricate the existence of a diagram."

She said his name, age and address given on the statement could be correct, but "everything else seems to have been an utter fabrication". Mr Sibaya denied that he had fabricated his evidence, saying "The truth always comes out".

He testified that he had been able to read the registration number of the Audi by the light of the brake lights when the driver had applied the brakes as he went around a corner, even though the vehicle's lights had been off and it had been dark.

Ms Quira said, "Brake lights come on for a fraction of a second. I want to put it to you that is not believable". Mr Sibaya responded, "I remember these numbers to this day. Even if you woke me up in my sleep I would remember them."

The hearing was told earlier that Mr Sibaya appeared "truthful and consistent" in every respect.

This was the assessment of Truth Commission investigator John Lubbe, who came across the initial statement by Mr Sibaya in an information note in security police files.

Mr Ntsebeza, a prominent Transkei advocate who was also the personal legal representative of then Transkei military ruler Bantsi Holomisa, says he has never seen Mr Sibaya before and doesn't know him.

He also says he will issue a full statement after the hearing. Mr Ntsebeza, who acted for several Apla members during their trials, is expected to disclose that police previously tried to smear him with false documents relating to alleged Apla bases at his home and family bookshop in the Transkei.

The hearing continues.



Witness, Gugulethu gardener Bennett Sibaya, who says he saw the Heidelberg Tavern attackers using Dumisa Ntsebeza's car

I don't hate you now - attacker

Former Apla soldier Zola Mabala has told the father of Heidelberg Tavern victim Rolande Palm that he is satisfied with South Africa's democratic government and now has no hatred of whites.

Mabala is one of three Apla members applying to the Truth Commission for amnesty for their role in the attack on the Observatory pub in December 1993, in which four people, including Ms Palm, died and another five were seriously injured.

Ms Palm's father, Roland, told Mabala he and his daughter had been in the pub together when she was "brutally murdered". He described Apla's attack as a "horrific crime".



Eye of a storm Truth Commissioner Dumisa Ntsebeza and his lawyer, Christine Quira

AGs say sorry for hurt and suffering

After's attorney-general have apologized to victims of apartheid laws for their hurt and suffering.

Testifying in Johannesburg at the Truth and Reconciliation Commission's special hearing on the role of the legal system under apartheid, the five present and former AGs admitted enforcing the law, but denied they were political appointments.

Former Western Cape AG D J Rossouw said, "I applied the laws supporting the apartheid system and contributed to the division and suppression of sectors of our society."

"As a product of that environment, I may on occasion have believed accusers too readily, or may have been insensitive to hearing or investigating claims of injustice. I confess that these were imperfections and I ask the forgiveness of those persons who suffered as a result."

Mr Rossouw said prosecutors operated within the system. It was parliament and not the law that fanned them. He hoped the new constitution would prevent a repetition of history.

Transvaal AG Jan D'Oliveira and Eastern Cape AG Les Roberts said prosecutors were duty-bound to apply the laws of the day, irrespective of their personal feelings.

Mr D'Oliveira said he conducted his duties with professionalism in accordance with the dictates of ethics and the common law.

It was unfair to blame prosecutors for being "part of the system" - Sapa

Clause is scrapped in controversial Identification Bill

Jacob Dlamini

CAPE TOWN — Parliament's home affairs committee yesterday approved the scrapping of a clause in the controversial Identification Bill which would have compelled property owners to report people living in their homes to the local authorities or risk having their municipal services cut off.

Dene Smuts said the clause would have allowed municipalities to conduct a census without regard for citizens' rights to privacy. The threat to privacy has caused the bill, which is likely to come before the National Assembly next week, to come under heavy attack from civil-liberty organisations and private citizens.

The bill makes it compulsory for citizens over 16 to apply for a new identity document or risk prosecution. The bill also compels people applying for identity documents and passports to give fingerprints.

Opponents of the bill argued recently that those opposed on principle to giving their fingerprints should be allowed to voice their objection without fear of prosecution. The committee agreed yesterday that while fingerprints would remain a standard requirement, controversial objectors would be allowed to claim "a lawful cause" as a reason for their objection.

The bill grants banks and insurance companies the right to use home affairs' new National Identification System, which is set to come into effect in 1999, to procure information on individuals. Although opponents objected to this, saying it would violate rights to privacy, the committee argued that it would be information available on a common voters' roll, which was open to the public anyway.

Ordered tavern attack — witness

CAPE TOWN — Evidence of the 1993 Heidelberg Tavern attack by an amnesty applicant to the truth commission was contradicted by a commission witness yesterday. Lyandiswa Gqomka said that she had been in her office at the time the unit ordered to attack the tavern, including the murder of two men.

In a rifle and hand grenade assault on the tavern on December 30, 1993 four people were killed, and six wounded. Xuma said he had given the order to Gqomka and Zola Mabala and Vuyile Madasi, who have applied for amnesty for the attack. Xuma also said Madasi, not Gqomka, had been the unit commander.

"I am not saying that the Heidelberg Tavern was attacked as a result of orders given by me in my capacity as Apla's head of special operations," Xuma said.

"According to intelligence reports prior to the attack we believed that Heidelberg Tavern was a 'relaxation' for some SA Police members," he said. — Sapa

Von Lieres 'not biased' — Victim rejects amnesty plea

THERE was no substance to the suggestion that attorneys-general played an active role in upholding apartheid, former Witwatersrand attorney-general Klaus von Lieres and Wilkau told the truth commission yesterday.

"We discharged our functions dispassionately and objectively under very difficult and trying circumstances," he said in his submission on the final day of public hearings on the role of the legal system in apartheid.

"The conduct and execution of our functions does not permit the inference that the prosecution was either biased in favour of the state or against the state and it is a pity... that this widely held perception exists. I look forward to the (truth commission) finally laying this ghost to rest," he said.

Questioned about political interference in certain cases and in the carrying out of his duties, Von Lieres said each case was decided on its own merits. — Sapa

However, cabinet ministers did make representations to the attorneys-general from time to time "to ask us to rule in favour" of the state or to drop prosecutions, but this had never influenced his decision on whether to prosecute. — Sapa

Yasmin Sooka chastised Von Lieres for not accepting responsibility for his actions and for not explaining properly to the commission what went wrong in matters which gave rise to human rights abuses.

Von Lieres replied that he had never said the system was wonderful. "Obviously things went wrong" because incorrect or insufficient evidence was provided. I am not saying everything went right with us. We also made mistakes.

The attorneys-general had to act within the parameters of the law. "There wasn't much else that we could do if we were unhappy then we didn't prosecute the case," Von Lieres said. "I am sorry that I wasn't able to give the public a better service," he said. — Sapa

KIMBERLEY — A victim of a 1993 hand grenade attack by two African National Congress members told the truth commission yesterday the men should not be given amnesty.

Lawrence Mbatia and Walter Smiles, now SA soldiers, are seeking amnesty for the attack on the Bophuthatswana consulate in Kimberley.

Their amnesty applications were opposed by lawyer Jeanne Nel, who was injured in the attack. Nel said in an affidavit to the amnesty committee she had suffered brain damage.

Nel said the men did not make full disclosure of all relevant facts to the commission, and the attack could not be associated with a political objective. — Sapa

Cosatu says business must compensate workers for apartheid

Pearl Sabolao

THE Congress of SA Trade Unions (Cosatu) would, in a submission to the truth commission next month, demand that the business sector compensate workers for the violation of their human rights under apartheid, Cosatu general secretary Sam Shilowa said yesterday.

"Big business not only collaborated with the apartheid system, but also created conditions that were conducive for the apartheid system to flourish, both political-

ly and economically," Shilowa said at the SA Municipal Workers' Union's (Samwu's) 5th national congress in Johannesburg.

Shilowa said the compensation demand- ed by Cosatu should entail big business closing the "apartheid wage gap".

Apartheid practices such as pay varia- tions based on racial discrimination were no longer acceptable. The business sector had to address this discrepancy to show it was committed to the new SA, Shilowa said.

He said that big business would also be asked to set aside money for the training of

workers in order to address the imbalances that were perpetuated by apartheid.

Shilowa said business had been profiting from the public sector and government for a long time and it was time it put money back into developing communities.

Business also had to play a role in the development of rural areas which had been neglected by them in their concentration on urban areas.

Meanwhile, the Afrikaner Handelsman- stant suggested to the commission in its sub- mission that several billion rands held by

the SA Special Risk Insurance Association, whose funds originated mainly from busi- ness, be diverted to compensate victims of gross human rights violations.

Government has said it plans to use as much as R8,5bn from the association's kitty to reduce state debt.

Shilowa said Cosatu was not opposed to privatisation but was against the unstruc- tured manner in which it was being imple- mented. He feared that the present trend towards public-private sector partnership created room for business to "take over" the

delivery of services, which would not nec- essarily lead to improved delivery.

The role that the business sector played in delivery should be in the form of building the capacity of the public sector to deliver services, he said.

In his opening address, Samwu presi- dent Petrus Mashishi criticised govern- ment's privatisation and outsourcing pro- gramme, arguing it would result in wors- ening the hardships of the poor.

Mashishi said there were at present high levels of delivery to the minority only, in-

stead of the provision of the same level of services to everyone. The public sector needed to be restructured to meet the needs of the majority.

Privatisation would perpetuate "apar- theid" service delivery because it would im- it access to service delivery to those who could afford it. The union would continue to fight privatisation which went hand in hand with corruption,

Mashishi said. Cosatu's submission to the commission will be made on November 11, 12 and 13.

(252) 80 90/10/97

the Bünfräm pächydeim

LEGAL PROFESSION

Judging judges' judgments (252)

FM 31/10/97
Errors of omission and commission acknowledged at TRC hearings

The Johannesburg Bar Council wants to restore posthumously to the roll of advocates Bram Fischer, one of its former chairmen and a leading member of the South African Communist Party — thus reversing its January 1965 decision to have him struck from the roll

Its change of attitude after 32 years is recorded in the three-volume submission by the General Council of the Bar to the Truth & Reconciliation Commission

Noting that advocates are struck from the roll to protect the public from unscrupulous and dishonest practitioners, the present Johannesburg Bar Council states unequivocally that it does not believe that Fischer — now widely recognised as a man of intellectual integrity and moral courage — should have been removed from the roll

Quite the opposite "It believes that a grave injustice was done to him and today can only apologise to his family"

As far back as 1965 Fischer, scion of a prominent Afrikaner family, was not without supporters in the Johannesburg Bar the successful application to strike his name was opposed by Arthur Chaskalson, now Constitutional Court President, and Sydney

Kentridge, now practising as a barrister in London

The General Bar Council's submission carries an explicit admission from the Pretoria Bar that it was silent as the previous government subverted civil liberties

"We apologise to our colleagues, to the judiciary, the attorneys' profession, the public at large and, in particular, the victims of unjust laws for these failures," says the Pretoria Bar chairman

The *mea culpa* implicit in the statements of the two Bars is reflected in submissions to the TRC from several eminent jurists. A signed statement by five judges, including Chaskalson and Chief Justice Ismail Mahomed, who only became judges after 1994, reinforces that sentiment. Chaskalson and Mahomed — supported by judges Pius Langa, HJO van Heerden and immediate past Chief Justice Michael Corbett — state judicial officers rarely remarked on the racist character of the apartheid law

"Some of them will not have considered the law unacceptable. For those who did, it appears that generally they did not consider it their function to comment on its character," the judges say

In a strongly argued presentation Paula McBride — wife of ANC bomber Robert McBride, who was reprieved from death row and then pardoned — takes a tough line against "the apartheid judiciary"



Paula McBride

"Being a member of the judiciary in a country with unjust laws must, by definition, involve dispensing injustice," she says. She asserts that judges under the old order "sent people to jail or the gallows, knowing full well that they had not had a competent defence"

McBride singles out for particularly sharp criticism Judge Ramon Leon, who sentenced Amantsozi bomber Andrew Zondo to death

She charges that the judiciary gave "a veneer of respectability" to apartheid laws which was "more valuable to the fortification of apartheid

than a thousand Vlakplaas farms" She calls on the TRC to subpoena judges to account for their actions

McBride's criticisms match largely those voiced by TRC chairman Desmond Tutu against judges who "arrogated to themselves a special status" by deciding they did not need to appear before the commission at its hearings on the legal profession

McBride's unrelenting attack on the judiciary contrasts with the view of Chaskalson and his fellow judges. They contend that no account of the apartheid years would be accurate unless it acknowledges that "justice was done and seen to be done in some cases" and that "principles and values central to the rule of law and a just legal system" were not entirely lost

Patrick Laurence

COSTING LEGISLATION

(252)
FM 31/10/97

Putting a price tag on idealism

MP wants government to gauge the cost of laws before enacting them

Private members' Bills do not have a good record of passing their first hurdle, an ANC-dominated parliamentary committee. The Democratic Party's Ken Andrew, however, is hoping that his Compliance Costs Bill will garner sufficient support — not least from the Finance Department — to attract serious attention.

The Bill is an attempt to get Ministers responsible for new laws and White Papers to draw up estimates of their costs to both the public and private sectors before tabling legislation. It would exclude appropriation and private members' Bills.

Andrew proposes that before legislation reaches parliament for discussion, the appropriate director-general should prepare an estimate of what it would cost to implement, then refer it to the DG of State Expenditure for "investigation, verification and assent." Further requests for information from State Expenditure or Finance would have to be granted, otherwise the Finance Minister could declare the estimates invalid.

State Expenditure's evaluation could be conducted at the department's own cost or be outsourced. Only thereafter could the compliance element of a new Bill or White Paper be authorised, or nullified with reasons given to the affected department.

"There is a need to ensure that there are checks and balances to control government expenditure properly," says Andrew. "This is crucial if SA is to meet its deficit reduction targets of the Growth, Employment & Redistribution (Gear) strategy."

Gear projects financial deficit reduction from 5,1% of GDP in 1996 to 3% in 1999 and 2000. It aims to contain debt servicing obligations, counter inflation and free resources for investment.

Andrew says he drew on the experience of New Zealand, which has comparable compliance legislation in place, in writing the Bill. He is optimistic about its chances, despite it being an opposition initiative. "It makes sense and is not an attack on policy, we need a system of this sort."

The Finance Department is reviewing the Exchequer Act, and if Andrew's Bill gains a sympathetic hearing it could be incorporated in current legislation.

Peter Wilhelm



The TRC will succeed for the sake of God's world

Archbishop Desmond Tutu tells whites: dear friends, grab this most generous offer

There are significant sectors that have made it their business to demigrate, vilify, ridicule and misrepresent the Truth and Reconciliation Commission and its work

They decided long ago, in advance of any evidence to support their position, that the commission was a witchhunt directed at one particular community, that a certain group had already been condemned collectively; that it was really an instrument to advance the political interests of one political party, and that in its composition the TRC was heavily weighted in favour of those who supported that political party. No evidence to refute these allegations and accusations has made any difference at all.

The TRC had evidence of alleged security force activities almost from day one in 1996 when we began. And yet when we started our work, we began with victim hearings in April 1996. We had our first in-camera investigation of those alleged security force atrocities only in November 1996 - six months into our operation. That is surely very odd for people zealous to be on a witchhunt.

The President of this country, who is also president of the party allegedly favoured by the TRC, when attending a session of the commission, was forced to sit listening to a long tirade by someone accusing the ANC of torture in Quatro. Strange for a commission that is biased. Nearly every party has criticised the TRC whenever our spotlight has revealed something embarrassing to that party. When the TRC differed with the

ANC on amnesty and the just war, that was the only occasion I threatened to resign. Wasn't that incontrovertible evidence of even-handedness, of the autonomy of the TRC?

Almost all those who oppose the TRC benefited from apartheid. It is interesting to note that most of the victims, black and white, have largely been supportive of the TRC process.

There have been those who have been vociferous in asserting that the TRC, far from promoting reconciliation, has in fact done the opposite. It has engendered resentment and anger. It has opened old wounds and fostered alienation.

I have challenged those who have made these assertions to provide us with the evidence that would support their claims, because our experience has been the direct opposite.

Recently in Port Elizabeth, police officers testified to doing some terrible things, drugging the coffee of their charges, shooting one behind the ear and then burning his corpse, and while this cremation was going on they were having a braai - turning over two sets of meat. And one of them confessed to lying to the then supreme court to get an interdict that prevented the mother of one of the victims testifying at a TRC hearing. We had our work cut out to calm the people. Other things happened at that hearing and the people were livid. But they did not go out on an orgy of revenge, they did not attack those police officers who came on successive days.

No, this process has made a contribution to reconciliation, to healing. The TRC is not required to achieve unity and reconcile our nation - it is required to promote, to contribute to it.

Now we will know what happened to the Cradock Four, the Pepco Three, Siphiwe Mtshali, Steve Biko and others. Despite inquiries and inquiries all these truths have remained concealed.

The TRC process has helped to expose the real truth and this surely is helping to heal. Ignorance and lies exacerbate the anguish of the survivors or the victims.

And then we had an extraordinary thing happen when four former NP cabinet ministers testified in the State Security Council hearing. They said apartheid had no moral basis. They said they accepted political and moral responsibility. They said they could not say they did not know. That is a great deal more than anyone has said so far and they did not evacuate their apology by letting it die the death of a thousand qualifications. They apologised unreservedly.

You know, it has happened nowhere else in the world that former government ministers appear before such a commission and given such an account of themselves. They deserve to be commended. It is never easy to say "I am sorry, forgive me, I was wrong." As human beings we are forever trying to rationalise, to excuse the wrong we have done.

What have our detractors done to contribute to reconciliation? Absolutely nothing. They have spent their time bemoaning the passing of the old dispensation when they were the top dogs. They wield considerable influence in their communities. They ought to use that influence to persuade their friends to embrace the new dispensation enthusiastically. The old is not going to return, when they walked roughshod over the rights and dignity of others.

Those who deride the TRC hardly ever refer to an amazing phenomenon - the victims' readiness, indeed eagerness, to forgive. Many are seemingly talking it for granted - as something almost to which they are entitled. Dear friends, please take this, the last but most generous offer of dealing with the past. Grab it, because once it is past it will not return.

We are singularly fortunate, indeed blessed in this country. We could so easily have gone the way of Angola, the Sudan, Bosnia, Northern Ireland, Sri Lanka or the Middle East which have found peace so devastatingly elusive.

I used to say to whites, "I am as committed to white liberation as I am to black liberation." Now we have all been liberated. Come share in the process of healing, in the process of reconciliation. If this commission fails, you may not be around to describe it.

Reconciliation is a national project. We should all be involved. Get out of your ghetto of self-pity, of not acknowledging how lucky we all are.

Blacks could easily have been browned off. They have a new democratic government. It is nearly four years

since they elected it. They still get up from their shanty informal settlements. They go to work for white people in affluent suburbs and at night they return to the squalor of their homes, their unit streets, no running water, no clinics, no schools, no decent homes. They actually go back to all that and they don't say to hell with it - and go on the rampage in the largely white pockets of comfort and affluence, and all some whites do is moan about this and that, really about their loss of power.

Please God, give me a moving eloquence to persuade my white compatriots. Come eagerly, come enthusiastically and join the healing, the reconciling side. Your survival depends on it.

We are going to succeed - why? Because God wants us to succeed for the sake of God's world. We will succeed in spite of ourselves, because we are such an unlikely bunch. Who could ever have thought we would ever be an example, except of awfulness, who could ever have thought we would be held up as a model to the rest of the world? God wants to say to the world, to Bosnia, to Northern Ireland: look at them. They had a nightmare called apartheid. It has ended. Your nightmare too will end. They had what was called an intractable problem. They are solving it. No one anywhere can any longer say their problem is intractable.

We are a beacon of hope for God's world and we will succeed.

This is an edited version of a speech by Archbishop Tutu at the Cape Press Club this week.

Staw (252) 24/10/97

Tutu regrets that judges are unlikely to testify in person

The role of the legal system in human rights violations during the apartheid years will come under the spotlight at a three-day sitting next week

By Robert Barlow

How could gross violations of human rights occur in a country with an apparently functioning legal system, and with an ostensibly independent judiciary and legal professions?

The Truth and Reconciliation Commission will attempt to find answers to this question next week, when it holds a three-day hearing into the role of the legal system in the

apartheid era. The hearing is part of a series of special hearings on sections of civil society, including business and labour, the medical profession and the media.

Among those who have made submissions for the hearing are a number of judges of the High Court, including the present Chief Justice Ismail Mahomed, his predecessor Mr Justice Michael Corbett, Deputy Chief Justice Henrie van Heer

den, and Constitutional Court president Mr Justice Arthur Chaskalson and his deputy Mr Justice Plus Langa.

About 20 written submissions are expected from individual judges, but it is unlikely that individual judges will testify at the hearing, commission-er Yasmin Sooka said this week.

The General Council of the Bar, the body which represents the advocates' profession, has also made a lengthy written submission.

The purpose of the hearing, the commission said, was not to establish individual responsibility for human rights violations but to understand the role the legal system played in contributing to the violation and/or protection of human rights, and to identify institutional changes required to prevent those abuses that occurred from happening again.

The judiciary and the magistrates' Bench will come under the spotlight on Monday, fol-

lowed by the legal profession on Tuesday and the Department of Justice and attorneys-general on Wednesday. All the attorneys general had agreed to testify, Sooka said.

"The written submissions have been incredibly good and surprising in their candour," Sooka said.

"However, I don't think the main submissions went far enough. Some of the judges dealt with the issue that their silence was in a sense compli-

ty and that is what you want to develop."

Sooka believes, however, that the reluctance of judges to give oral evidence may hamper the inquiry and prevent a thorough investigation of the failure of the judiciary to prevent human rights abuses in many instances.

TRC chairman Archbishop Desmond Tutu agrees. In a statement this week, he said the commission appreciated the written submissions made by

judges, but appealed to them to give oral evidence.

"We are very disappointed that they are reluctant to attend the hearing. I discussed the matter with the chief justice yesterday but was unable to persuade him to appear with his fellow senior judges. However, we are pleased that he made clear that other judges were free to appear and I urge them to do so.

"The appearance of judges would be of immense symbolic value, which would, in turn, be greatly enhanced by apologies by members of the Bench for the past," Tutu added.

"This is a time of much reflection in our country, during which not only victims and perpetrators have come forward to tell their story, but also members of the medical profession, the media and business.

"We need to explore the meaning of accountability and judicial independence in our new constitutional democracy."

Alan 24/10/97

202

Powell hearing postponed again

(252) BD 24/10/97

Farouk Chothia

DURBAN — The truth commission averted a confrontation with Inkatha Freedom Party (IFP) KwaZulu-Natal MP Philip Powell yesterday when it decided for the second time to postpone a hearing on his alleged involvement in human rights violations.

The commission wanted Powell to testify at a closed-door hearing after subpoenaing him more than a month ago, but backed out of forcing him to do so immediately after his legal representatives lodged several objections.

Powell had repeatedly insisted that he would not testify, a move which could result in him facing criminal prosecution

Commissioner Richard Lyster said the commission did not want to get involved in a "who is boss" confrontation. It decided to adjourn the hearing for a few weeks.

Powell's legal representatives had requested further information on questions to be posed to him. The commission would consider the request before reconvening the hearing, he said.

It was understood the commission wanted to question Powell on, among other things, allegations that he had received weapons from former SA Police Vlakplaas commander Eugene de Kock.

Lyster said the commission was legally required to ask the attorney-general's office whether it did not want Powell questioned on

certain issues because it could affect any criminal prosecution being considered against him.

KwaZulu-Natal attorney-general Tim McNally and Transvaal deputy attorney-general John Welsh gave the commission the go-ahead to pose its questions to Powell, Lyster said. Welsh said none of the cases he was handling involved Powell, but he could not speak for attorney-general Jan D'Oliveira, who could not be reached for comment yesterday.

IFP KwaZulu-Natal spokesman Blessed Gwala said Powell was being "pursued" as part of a campaign to "silence opposition and in particular legitimate black opposition in the run-up to the 1999 elections."

Truth body proposes paying R2bn to apartheid victims

Linda Ensor
and Stephen Laufer

BD 24/10/97
CAPE TOWN — The truth commission yesterday proposed payments totalling R2,86bn to apartheid-era victims of gross human rights violations, but the deputy chairman of the body's reparations committee, Wendy Orr, said the sum was negotiable.

Orr's comments came in response to suggestions earlier in the year that government might oppose the proposal because it would run counter to deficit reduction efforts.

Orr said neither Finance Minister Trevor Manuel nor his deputy, Gill Marcus, had attended last Friday's meeting at which the proposals had been presented to government. A finance department representative had not had a mandate to respond to them.

Justice Minister Dullah Omar had been supportive, and neither Health Minister Nkosazana Zuma nor Welfare Minister Geraldine Fraser-Moleketi had "thrown their hands up in horror" at the proposals.

Orr said the proposals were "reasonable, but perhaps not reachable". She was "confident that we will reach a usable sum".

A response was expected from Manuel early next month. Under the proposal, an estimated 22 000 victims would receive between R17 000 and R23 000 a year for six years. This would translate into six annual pay-

(252)
ments of about R500m, representing 0,25% of the national budget.

The list of qualifying victims of gross human rights violations would be based on those who applied to the commission's reparation and rehabilitation committee or were approached by it. The list would be finalised after the December 14 deadline.

The committee recommended that the president's office take control of the reparations process through the President's Fund.

Commission chairman Archbishop Desmond Tutu said initial discussions had been held with a finance ministry representative last Friday but the recommendations would be fully considered by government and Parliament when the commission submitted its final report next year. While sympathetic, government faced financial constraints.

Urgent interim relief to facilitate the access of victims to services such as education and health was proposed. Various departments would give priority to victims and the relief would involve only a maximum grant of R2 000 a person if necessary. Committee chairman Hlengiwe Mkhize said that the reparations would have three components — acknowledgement of suffering, facilitation of access to services and facilities such as health and education, and subsidisation of daily

Continued on Page 2

Victims

BD 24/10/97
Continued from Page 1

living costs.

Of the commission's deponents, 38% requested financial assistance to improve the quality of their lives and 90% asked for financial assistance to purchase services such as education, medical care and housing.

Orr said no attempt had been made to measure degrees of suffering and ev-

everyone would receive the same basic amount in recognition of suffering.

Separately, there would be symbolic reparation to help heal the memory of a violent past — for example, erecting monuments and instituting a national day of remembrance. For individuals, exhumations, reburials, ceremonies and expunging criminal records would be considered. The commission also recommended community rehabilitation programmes.

Picture: Page 3

Winnie accuses Mandela at TRC

Wally Mbhele MtG 24-30/1

Winnie Madikizela-Mandela dropped a bombshell at the truth commission when she accused President Nelson Mandela of being part of a campaign to vilify her name.

She said Mandela had instructed National Police Commissioner George Fivaz to "dig up all the dirt against her" and wanted to use the information against her in their 1996 divorce hearing.

The *Mail & Guardian* understands she made this stunning allegation last Monday at the closed hearing held to determine whether she was guilty of human rights violations.

The claim against the president was made as truth commissioners fired questions at Madikizela-Mandela about her knowledge of Dr Abu-Baker Asvat's killing. Asvat was gunned down in his Soweto surgery in 1989. One of the killers is now seeking amnesty for the murder and has claimed he was hired by the president's former wife to eliminate the doctor.

Sources close to the commission told the *M&G* it was Madikizela-Mandela's view that Mandela wanted to use information obtained from the Asvat murder investigation against her during her divorce proceedings.

She also blamed both the African National Congress and the former National Party government's propaganda unit, Stratcom, for the negative publicity she has been receiving.

At the hearing, Madikizela-Mandela said she was of the view that certain ANC leaders were behind the truth commission's probe into alleged human rights abuses by her former bodyguard, the Mandela United Football Team. She sees this investigation as part of a wider political plot to thwart her chances of becoming the party's and the country's next deputy presidents.

"When the commission treats me like a leper and its chairperson hugs our former oppressors, then I worry about what type of reconciliation we are fostering," she said in a statement last week.

Truth commission insiders said her statement echoed what she had told the commissioners during the closed inquiry.

She reminded the commission that she was part of the parliamentary process which legislated the Promotion of National Unity and Reconciliation Act which gave birth to the commission. It was in that context that she lashed out at the commission for reneging on its original mandate of pursuing apartheid oppressors rather than the victims of human rights abuse.

Insiders also said because of Madikizela-Mandela's suspicions of the ANC, her lawyers had instructed the commission not to communicate directly with the ANC's legal team.

10/97 (252)

However, ANC legal expert, Mpumalanga Premier Mathews Phosa, was part of the team assisting Madikizela-Mandela, and said she has not barred the ANC from helping her. It was, he said, not his view that the ANC has been shunned by Madikizela-Mandela, but that she prefers to use her own lawyers.

He said he had only accompanied Madikizela-Mandela to the commission's meetings because he had to ensure that the interests of the ANC were looked after. "As the ANC," said Phosa, "we only deal with political presentations. It was a difficult moment."

Sources close to the commission said it will not call Mandela to answer the allegations levelled against him by his former wife.

However, some officials of the former Mass Democratic Movement (MDM) and those who constituted the Mandela Crisis Committee — formed in late 1988 to look after Winnie Mandela's affairs — will certainly be called to testify at the open hearing on November 24.

It is understood the commission has already held talks with Deputy President Thabo Mbeki's adviser, the Reverend Frank Chikane, who was one of the members of the crisis committee.

MDM leaders will be questioned on their correspondence with the exiled ANC leadership in Lusaka, as well as a statement they made in February 1989 denouncing Winnie Mandela.

The statement followed reports that her football club had abducted four youths, including Stompie Seipei, from a church manse. It expressed "outrage at Mrs Mandela's obvious complicity in the recent abductions. Had Stompie and his colleagues not been abducted by Mrs Mandela's football team, he would have been alive today."

Those were the days: Winnie Madikizela-Mandela charges her former husband with instructing police to dig up dirt against her to use in their divorce proceedings



TRC's Chris de Jager voted to bar blacks

Mungo Soggot

The Truth and Reconciliation Commission will be in the unnerving position next week of having to delve into the exploits of one of its commissioners at hearings into the legal profession under apartheid. Chris de Jager, a Pretoria advocate, and now a member of the commission's amnesty committee, voted against allowing blacks to join the Pretoria Bar in 1978 when it was the only all-white Bar in the country.

De Jager said this week he will not be able to attend the hearings but he will be filing a written submission about the incident. He said he had been frank about his past at his interview for the Truth Commission appointment, but had not apologised specifically for this incident.

M+G 24 - 30/10/97 (252)

He was formerly a member of the now defunct Volksunie, a small right-wing party, and participated at the Kempton Park constitutional negotiations.

John Allen, spokesman for truth commission chair Desmond Tutu, said President Nelson Mandela had deliberately chosen commissioners who would represent a "cross-section of people".

De Jager's role in opposing the motion — which was defeated — appears in a submission to the truth commission by the General Council of the Bar (GCB), which also includes a blanket apology by the Pretoria Bar for its failure to condemn apartheid.

"While other constituent Bars of the GCB voiced their concern, the Pretoria Bar failed to do so, and on more than one occasion refused

to join its fellow members in condemning executive excesses that brought the administration of justice into disrepute and prevented the courts from protecting civil liberties," the submission reads.

It hinges on a critical examination of the legal profession and the judiciary under apartheid, but also includes a string of price-less anecdotes from archives.

It quotes from a letter penned in September 1977 by one of South Africa's most notorious justice ministers, Jimmy Kruger, on the request into the death of Black Consciousness leader Steve Biko, one of the National Party's most celebrated cover-ups.

Kruger, who earned international notoriety with the words "Biko's death leaves me cold", wrote "A more comprehensive, a more

public and a more thorough investigation than the inquest conducted into the death of the late Steve Biko can hardly be visualised if such an enquiry does not satisfy whatever public disquiet there may be, no commission of enquiry may do so."

Kruger also expressed concern for "those who must endure the brunt of suspicion whenever a detainee dies in detention."

The submission includes an apology by the Johannesburg Bar for striking off advocate Bram Fischer in 1965, after he failed to attend his trial for contravening the Suppression of Communism Act.

The Johannesburg Bar Council has apologised to Fischer's family. The Bar Council not only instructed attorneys to strike off Fischer, but also resolved to inform the Minister of Justice "confidentially" about its decision.

"Why the Bar Council thought it necessary to advise the Minister of Justice confidentially of their decision is surprising and unexplained," the GCB's submission notes.

Union turns down truth body

(252) MHC 24-30/10/97

Sechaba ka'Nkosi

The United Workers' Union of South Africa (Uwusa), the notorious Inkatha Freedom Party-aligned union founded and funded by the apartheid government during the "total onslaught" of the mid-1980s, will not appear before the truth commission next month when business and labour make their submissions.

Uwusa has apparently turned down an invitation from truth commissioners, despite its bloody history with unions mainly affiliated to the Congress of South African Trade Unions (Cosatu) in Gauteng and KwaZulu-Natal. Uwusa's clashes with other unions began as soon it was founded by security forces and senior IFP officials in 1986 to counter Cosatu's influence in factories and mines.

Uwusa president Alpheus Mtshah said they would have considered an invitation "It would have depended on the reasons why we would have to appear before the commission. Obviously we would have tabled it before our executive and decided whether it would be appropriate for us to appear or not."

However, the commission's Faizel Randerá says he personally phoned Uwusa offices in Empangeni to ask them to be part of the hearings. Randerá says even at this hour, Uwusa and any other union are still invited to come forward.

"We tried four times to set up a meeting with Uwusa since we understand the sensitivities surrounding their role in the 1980s. However, the office promised to come back to us and up to this far, nothing has happened," says Randerá.

Another conspicuous omission is the newly formed Federation of Unions of South Africa (Fedusa) or its predecessor — the Federation of South African Labour Unions. Fedusa officials say while they have nothing to hide about their history, they are interested in whether the commission would be able to uncover the truth about inter-union clashes in the past.

'NOT MY BABY': Barney Pitjana says his speciality is the struggle against racism and believes the fight to eliminate gender inequality should be left to its victims

Human rights 'custodian' skirts issue when it comes to women

PROFILE

'NOT MY BABY':
Barney Pitjana
says his speciality
is the struggle
against racism
and believes the
fight to eliminate
gender inequality
should be left to
its victims

The chairman of the SA Human Rights Commission (SAHRC) admits that he is sexist, but has promised to keep whittling away at this inevitable consequence of being born with an excess of testosterone. Says 52-year-old Dr Barney Pitjana "I have to live with sexism. It's only natural. I'm a man, after all. I have to face up to the fact that I'm not always as sensitive about gender issues as I am about racism. I don't think gender is my issue."

He believes the elimination of gender discrimination is a cause which has to be championed by victims.

"My expertise is racism. I've worked on it for so long," he adds.

It is Pitjana's fight against racism that has thrust him into the — often unwelcome — limelight. From an early age, he attracted the attention of the security police as a student protesting against Afrikaaner domination of schools in the Eastern Cape in the 1960s. At this time, he had his entrée into the public debate on racism with a letter to a newspaper, at 19, after an unexpected brush with a Catholic nun.

Pitjana had arrived at a convent to request maths and science tuition, but before he had a chance to explain, an angry nun ordered him away from the Holy Rosary Convent in Port Elizabeth. "She thought I was a beggar because I was black. She just chased me away without giving me an audience at all. I remember writing a letter to the local newspaper about it, using the nom de plume Beggar Man. The school was upset and apologised to me, but they never offered to help."

Pitjana was expelled from Fort Hare University for participating in a student strike protesting against the inadequate skills of the staff foisted on black students by the apartheid government.

In the 1970s he was elected president, and then executive secretary of the South African Students' Organisation.

He was banned twice, spent almost two years, effectively, of his life in detention and was refused permission to complete his studies while in police custody.

Pitjana fled South Africa, with the help of a magistrate who provided him with false documentation, after being told, he says, by the same group of men who murdered activist Steve Biko that they could see that he "wanted to end up" like Biko.

After studying theology, Pitjana started a new life as a vicar in a predominantly white, Anglican parish in Birmingham, England.



Controversy dogs the head of the Human Rights Commission, Barney Pitjana, who confesses to a frailty — sexism. He aims to mend his ways, however, says JACKIE CAMERON

In 1992, he felt there was no longer a reason to live in exile and returned out of a "sense of duty".

Pitjana took the helm of the controversy-racked SAHRC, after a stint as a researcher at the University of Cape Town.

Pitjana has many allies, particularly among black academics and businessmen. He is also well-connected politically; he includes Deputy President Thabo Mbeki and Minister of Public Administration Zola Skweyiya among his schoolyard mentors.

But he has found himself repeatedly chaffing against people who question or criticise him and his Commission.

Last year he accused respected lawyer Dennis Davis of being a "racist", after Davis questioned the appointment of commissioners who did not have a proven record in fighting human rights abuses.

Later Davis called on Pitjana to resign, saying he was "pathetic" and lacked commitment to human rights.

In June 1996, he accused a Sunday newspaper of "conducting a vendetta" against Henry Isaacs, a former politician.

Early this year, Pitjana attracted media criticism when the commission requested R32-million from the government, after being told to expect about R6-million.

In August, Pitjana's commission was hit by a series of resignations of commissioners before Pitjana "conceded" that differences over management style were partly responsible.

Then, this newspaper reported that Pitjana's basic salary had jumped from about R183 000 to R286 000.

(252) Star 25/10/97
Pitjana denied that his total package was R400 000, as stated by the Department of Justice, and accused this newspaper of racist, sloppy reporting.

His latest spat involves the Democratic Party's submission to parliament on the plethora of commissions which are sapping government funds. Pitjana has accused the DP of racism because it targets commissions headed by blacks in its report, but has said he should not be seen as "labelling them".

Does Pitjana repeatedly cry racism in the face of adversity because he is, himself, a racist? He vehemently denies this, and is emphatic that he is, in fact, the antithesis of a racist and has white friends who are "not necessarily political friends".

"It's not that I hate white people. I have white friends. But this doesn't mean that we mustn't talk about racism," he says.

"The problem with South Africans, especially white liberals, is that they are too inclined to associate racism with apartheid. Racism is about the prejudice that remains in our society. We need to get away from the paradigm of apartheid and look at the other facets. Racism alienates people, it limits the opportunities of people on the basis of race."

"I am not talking about the very blatant racism, for example where signs state that no blacks are allowed. Very few people, not even Eugene Terreblanche, would want to say publicly that black people are inadequate." "The kind of racism I'm talking about is, for example, when a restaurant tells a black person there is no seat available, but there is one."

Pitjana says he has come across this racism in the new South Africa; once he arrived at a restaurant he told his booked table was no longer available and, on another occasion, he arrived at a white home to collect a puppy, only to be told it had been taken.

"People can't make out my accent when I speak over the telephone. They don't always realise I'm black."

Returning to sexism, Pitjana says he is "working on it", with the help of reminders from his wife Dinza, a social worker, and 26-year-old daughter Loyiso.

Heidelberg Massacre Sparked Bitter Row

Ntsebeza's vehicle 'used' as getaway car after attack

CITY PRESS can today reveal the reason behind the circumstances leading to the bitter row and resignation of TRC investigator Glen Goosen, it centres around a dispute over the alleged use of Dumisa Ntsebeza's vehicle in the Heidelberg Tavern massacre in 1993 - in which four people died

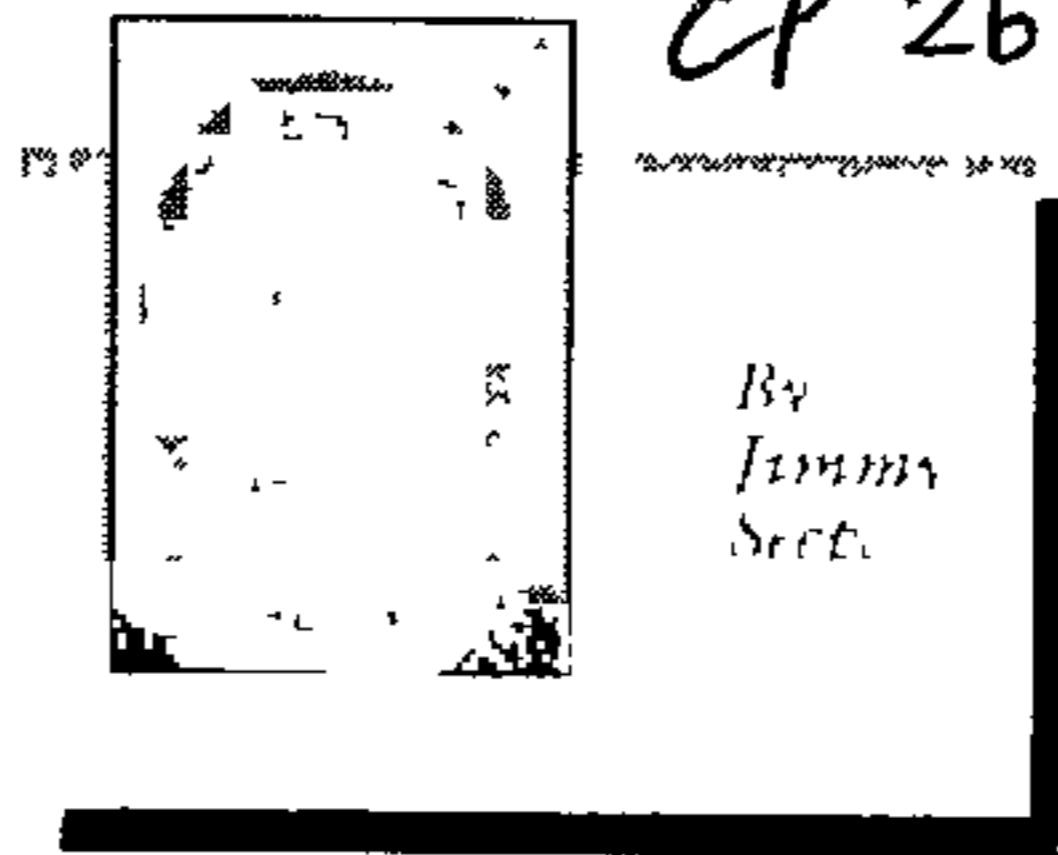
We also learned that Goosen resigned from his position last week after the commission refused to allow him to serve a Section 19 notice on the commissioner, Dumisa Ntsebeza - TRC Head of Investigation - to answer questions relating to the possible use of his car as a getaway vehicle by members of the PAC's armed wing - in the tavern attack on December 30

It is understood that one of the former members of the Azanian People's Liberation Army (Apla) intends to implicate Ntsebeza during the amnesty application hearing into the attack - which starts tomorrow

City Press has however learned that the TRC has gone ahead with issuing Ntsebeza with a Section 19 notice - to appear at a hearing on the Heidelberg Tavern Massacre. It however insists that the notice "is not a subpoena"

TRC chairperson Archbishop Desmond Tutu said Ntsebeza received a Section 19 notice from the amnesty committee of the commission - informing him that he might be implicated - by another witness - during the course of the hearing

According to information received by City Press, Goosen was intending to serve a notice on Ntsebeza to appear before the amnesty



committee hearing

But Tutu said this notice had nothing to do with Goosen "The notice was served on him by the chief leader of the evidence of the amnesty committee, Advocate Mokedi "Cocky" Mpshe," he said

But City Press understand that the recommendation to serve Ntsebeza with a notice is alleged to have been done on the recommendation of Goosen - who had during the year reportedly discovered that Ntsebeza's vehicle was used as a getaway car.

Tutu however is adamant that Mpshe was not influenced by anyone to serve notice on Ntsebeza

He said "I asked Mpshe whether this (serving notice) was done on the recommendation from anybody else, and he said 'Nobody asked me to do anything, I decided myself to do so.'"

Tutu said "The whole matter has nothing to do with Goosen - the whole process is in the hands of the amnesty committee. They are free to do exactly as they wish in relation to this"

It is understood that Goosen's

resignation was sparked off by the getaway vehicle issue with accusations of racism - which the commission is denying, - being exchanged between the two

Although the TRC has suggested that the problem between the two investigators related to how best to transform the investigative unit, sources claim that this was not the case

It is alleged that during the exchanges of letters between the two commissioners, Goosen had indicated that he still planned to go ahead to request Ntsebeza to provide them "with a full explanation" of how his car came to be on the scene - at the time of the attack

Tutu said the commission "would act immediately if there was any evidence that proved Ntsebeza was involved (in the Heidelberg Tavern Massacre)

He could not continue as a commissioner, if he was involved"

Tutu said he was satisfied that "on the basis of what I got, this is not the case"

Both Goosen and Ntsebeza were unprepared to respond to City Press inquiries. The whole matter was referred to Tutu by TRC officials

It is understood that the matter between the two officials had been dragging on for several months, following Goosen's apparent discovery - during his investigation - that Ntsebeza's car was used as the getaway vehicle

Goosen is understood to have said that the TRC was rallying Ntsebeza - and was not in vigorously pursuing the

(252)
CP 26/10/97

By Jimmy Sect.

vite
hpar
said

Monday: Mac Maharaj talks to Jovial Rantao about his new campaign against death and injury on the roads

INSIDE

The TRC's special committee proposals for compensation to victims of human rights violations during the dark days of apartheid

Money can't heal all wounds

But at least reparations will allow apartheid's victims an opportunity to restore some of their lost dignity

Money cannot bring back the dead, or compensate adequately for pain and suffering. But in its proposal for reparations to victims of apartheid, the Truth and Reconciliation Commission (TRC) has acknowledged that victims have a right to be compensated, and that various forms of compensation could improve the quality of life of victims and their dependants.

After a long consultative process with all concerned, the TRC's reparations and rehabilitation committee has finalised its proposal for a policy which, if accepted by the Government, will cost the country about R3-billion in direct payouts to victims and their relatives.

Although the policy proposal announced by the TRC yesterday is presented as a final recommendation, the commission hopes to open further debate about issues relating to reparations, especially who should benefit and where the money should come from.

The policy proposal will have to be approved by the Government when the TRC submits its final report in July next year before it can be implemented.

Victims of apartheid have a right to compensation. This principle was first established in the TRC's founding legislation, which mandates it to recommend measures aimed at granting reparations to victims and restoring their human and civil dignity through appropriate rehabilitation.

The principle was upheld by the Constitutional Court last year, when it ruled that the commission's power to grant amnesty to perpetrators - thus denying their victims the right to seek recourse in the courts - was legal, but that it had to be accompanied by a quid pro quo in the form of appropriate reparations made by the Government.

The proposal covers two forms of reparations: urgent interim relief for people in immediate need, and a long-term reparations and rehabilitation strategy involving financial grants to individuals, symbolic reparations, community rehabilitation and institutional reform.

The commission is empowered to administer and grant urgent interim relief, but the long-term reparations policy will be the responsibility of the Government.

Victims found to be in need of urgent relief are entitled to be referred to appropriate services, for instance

medical or mental services. If those services cannot be provided free of charge, victims are entitled to an amount of up to R2 000 to pay for them. This is already being done by the commission.

The proposal for a final reparations policy has four components.

■ Individual reparations grants (IRG) - an individual financial and scheme through which each identified victim will be paid an annual amount of between R17 029 and R23 023, depending on circumstances, for six years.

■ Symbolic reparations, entailing measures aimed at assisting communities to commemorate the pain and victories of the past, for instance through a national day of remembrance, memorials, and monuments.

Individuals will also be helped to obtain death certificates, conclude outstanding legal matters and expunge criminal records which are an inheritance of apartheid laws.

■ Community rehabilitation programmes, aimed at establishing services and facilities to promote the healing and recovery of individuals and communities ravaged by apartheid.

■ Institutional reform, including legal, administrative and institutional measures designed to prevent a re-

urrence of human rights violations. The policy, the commission says in its policy document, is development-centred.

"Development is not about provision of resources to passive individuals, but rather about actively empowering individuals and communities to take control of their own lives."

The policy aims to provide assistance to individuals who are recipients of reparations, for instance financial services to those who receive individual grants. It is intended to be simple, efficient and fair, culturally appropriate, and community-based to ensure that it becomes a participatory process.

To pay for the various forms of reparations and administer the programme, the President's Fund will be established. The fund will receive money from the Government, international and local donors. The commission is also exploring other possible avenues of revenue, such as the Afrikaanse Handelsinstituut's proposal that part of the R9-billion Sasira fund, the insurance fund established to safeguard business against losses incurred through political violence, be used.

Star 24/10/97 (252)

Based on the commission's projection of 22 000 eligible victims, the total cost of the reparations policy is estimated at R2 864 400 000 over six years, or about R500-million a year. The total figure, the commission points out, represents about 0.5% of the national budget.

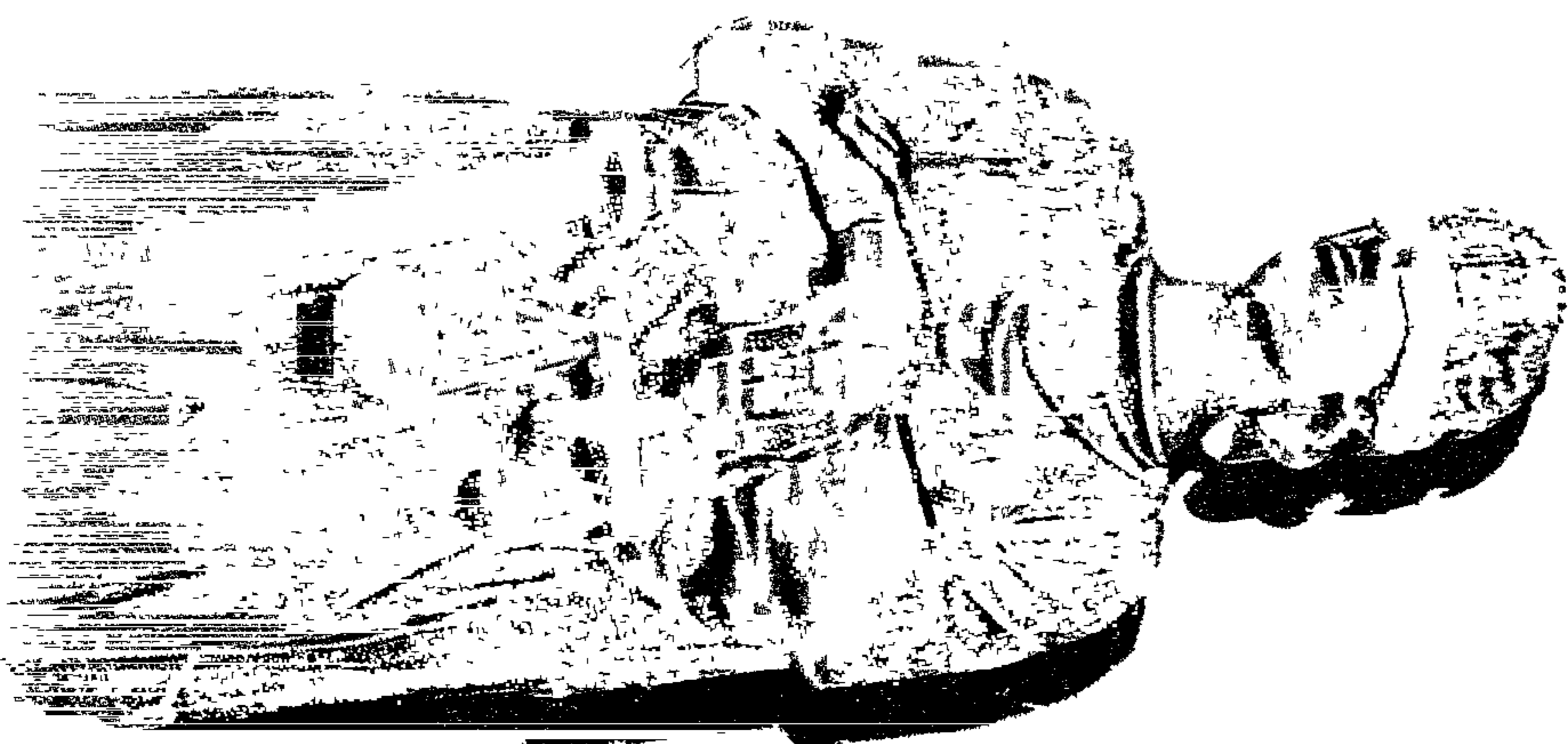
Why throw money at those who suffered as a result of the apartheid conflict?

"The individual reparations grant is an acknowledgement of a person's suffering. (It) provides resources to victims in an effort to restore their dignity," the policy document states.

"About 38% of the dependants before the TRC requested financial assistance to improve the quality of their life. In addition, over 90% of dependants asked for a range of services which can be purchased if money is available, for instance education, medical care, housing etc."

The benchmark amount of individual grants, R21 700, is equal to the median household income in South Africa. Individual grants are calculated from this benchmark, according to a formula taking into account the beneficiary's living conditions.

"The committee believes that this is the appropriate amount to ensure access to services and to assist in establishing a dignified way of life."



GRAPHIC DAVIDA TANCHIEL

Reparations an essential, yet controversial, part of the TRC



Reports by

Robert Brand

Although financial compensation is an essential part of the Truth and Reconciliation Commission's proposed reparation policy – and sure to cause the most controversy – the policy entails a wide range of rehabilitation and reparation measures.

Included among these is a "demonstration programme" for township youths exposed to political violence for years, and a programme to rehabilitate perpetrators of human rights violations.

Victims and their families, as well as communities on local, provincial and national level will benefit from symbolic reparation measures and legal and administrative interventions proposed by the commission.

Many victims who testified before the commission said they did not receive death certificates for relatives who have died, or asked for exhumation of remains, re-burials, ceremonies or headstones to honour the dead. These will be provided under the proposed policy and paid for from individual reparation grants awarded to victims.

It is also proposed that a process be established to expunge criminal records for political activities.

Criminal records to be expunged

Communities will benefit from symbolic gestures such as remaining streets and facilities to honour individuals from particular communities, memorials and monuments to commemorate the conflicts of the

past, and ceremonies to celebrate or commemorate particular events or individuals.

The commission also proposed a National Day of Remembrance and Reconciliation to honour the victims of the conflict.

Community rehabilitation is aimed at helping entire communities recover from the ravages of apartheid. Among the programmes proposed by the commission are a national demobilisation programme aimed at youths who have been exposed to violence over a long period.

The commission recommends that these youths should be "demilitarised" through a combination of social, therapeutic and political processes with the involvement of educational institutions and sporting bodies.

Another proposal involves the establishment of a programme involv-

ing the health, welfare and housing departments to deal with the problem of "internal refugees", the thousands of people who have been driven from their homes by political conflict.

The commission also proposes a programme for the rehabilitation of perpetrators of gross human rights violations.

"Perpetrators and their families need to be reintegrated into normal community life. This is essential to create a society in which human rights abuses will not recur."

In terms of mental health care, the commission proposed skills training, specialised trauma counselling services, and family-based therapy programmes to assist communities.

The commission has also proposed educational measures such as the establishment of community colleges and youth centres to assist with the rehabilitation of youths.

Keeping our readers up-to-date

Every Friday The Star will produce a news feature to keep you up to date with the Truth and Reconciliation Commission.

The feature, produced by our team of specialist TRC reporters, will provide all the background, the news and the insights you need to keep you in the picture as the dramatic story of our past unfolds.

Who will benefit from the individual reparation grants, and how is the sum payable to each individual called?

Victims who have been identified through Truth and Reconciliation Commission processes and who have applied for reparation on the prescribed form will be eligible. If the victim is dead, the grant will be divided among relatives and dependants who have applied for reparation.

Relatives and dependants are defined as:

- Parents, or those who acted as a parent
 - A spouse, including customary or religious law spouses
 - Children, including those born out of wedlock
 - Someone whom the victim had a customary or legal duty to support
- If the victim is dead, only those who qualified as a relative or dependent at the time of his or her

death will be eligible for a grant.

"Victims" are people who suffered a gross violation of human rights as defined in TRC legislation, including serious assault, torture, abduction and murder.

The amount of the grant is calculated according to a formula

Package based on household income

based on three components: an amount to acknowledge the suffering of the victim, an amount to enable access to services and facilities and an amount to subsidise daily living costs.

The package is based on a benchmark of R21 700, the median

household income in South Africa.

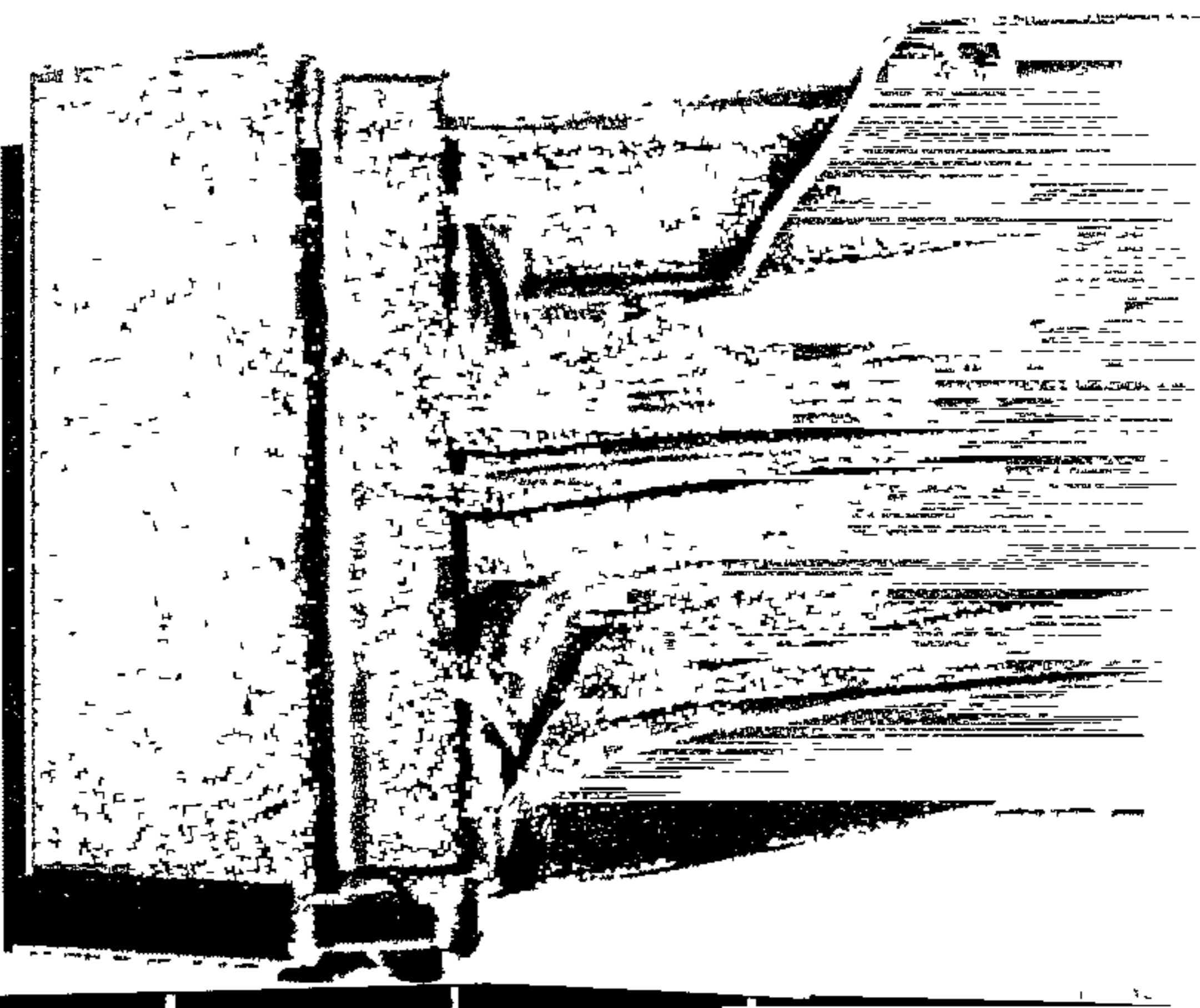
No individual will receive more than R23 023 a year for six years, while the minimum grant is R17 029 a year.

The different amounts are calculated from the base of R21 700, deducting or adding amounts depending on the number of dependants the recipient has and the area in which he or she lives.

People in rural areas will receive more because access to services is restricted in those areas, while people with dependants receive more according to a sliding scale.

The money will be paid in six-monthly installments.

"The individual reparation grants provide resources to victims in an effort to restore their dignity. It will be accompanied by advice and information to allow the recipient to make the best possible use of these resources," the policy document states.



TRC DIARY

Next week

On Monday, the commission starts a three-day hearing into the role of the legal system during apartheid. The hearing starts at 9am at the commission's offices on the 10th floor, Sanlam Building, corner of Jeppe and Von Wielligh streets.

Also on Monday, the amnesty committee starts a hearing in Kimberley on an amnesty application by Walter Smiles, a former ANC member who has confessed throwing a hand-grenade which killed one person during a protest march in the town in 1993.

On Tuesday, another panel of the amnesty committee starts an amnesty

hearing for three Apla members responsible for the 1993 Heidelberg Tavern Massacre in Cape Town, in which four people died. The hearing starts at 9am at the commission's offices in Adderley Street and is expected to continue until Friday.

Coming up

On November 3, the amnesty committee moves to Port Elizabeth to consider the amnesty applications of several policemen for the murder of Pebo 3, the Port Elizabeth activist who disappeared in 1985. The hearing will be held at the Centenary Hall, New Brighton.

Judges imposed laws, times neglecting justice

Star 31/10/97

(252)

By ROBERT BRAND

In a submission to the Truth and Reconciliation Commission this week, KwaZulu Natal Attorney-general Tim McNally approvingly described the South African judiciary as "courts of law . . . not courts of justice"

He cited in support a remark made by Mr Justice Mervyn King in 1979, which perfectly illustrates the legalistic role played by our courts during the worst years of apartheid: "An Act of Parliament creates law but not necessarily equity. As a judge in a court of law I am obliged to give effect to the provisions of an Act of Parliament."

Could our courts, given their propensity for applying the law rather than justice, have done more to ameliorate the effects of apartheid by protecting the rights of individuals against excesses by the state? An analysis of the performance of the Bench in the three decades under scrutiny of the TRC suggests they could have

In a detailed and extensively-researched analysis submitted to the TRC by the National Association of Democratic Lawyers (Nadel), the track record of the Bench is shown to be one of acquiescence to, and reinforcement of, abuse of power by the state, rather than what it should have been - a bulwark against the infringement of civil liberties.

The approach of the Bench to the enforcement of separate amenities vividly illustrates this point. Before the enactment of the Separate Amenities Act, the Appellate Division ruled in key judgments against discriminatory segregation. The same Appellate Division also invalidated the government's attempt to deprive coloureds of the vote, resulting in the National Party's cynical response of expanding the highest court of the land by packing it with judges who could be trusted to carry out the government's whims.

By the end of the 1950s, the Appellate Division was not only prepared to uphold manifestly discriminatory executive action under the Separate Amenities Act, but it even used the act to justify racial discrimination not covered by it.

In the now celebrated case of Godfrey Pitje, a black law clerk who had refused to sit at a table reserved for blacks in the magistrate's court, the Appellate Division ruled that racial discrimination, although not sanctioned under the Separate Amenities Act, such as this was eminently reasonable.

"The distinction drawn by the provision of separate tables in this magistrate's court," said Chief Justice LC Steyn, "is of a nature sanctioned by the legislature, and makes it more difficult to attack the validity of the magistrate's order on the ground of unreasonableness."

Here is a clear case where the court had the discretion to rule whether discrimination against black legal practitioners in the lower courts was acceptable, and it came down in favour of the apartheid edifice. It would regularly follow the same pattern in the decades to come.

In the Lockhat case of 1961, the Appellate Division validated the forced removal of Indians from "white" areas in Durban, even though the accommodation they were being moved to was manifestly unequal to that which they were losing.

In spite of government's assurances in introducing the Group Areas Act that the doctrine of "separate, but equal" would apply, Mr Justice Holmes, supported by a majority of the Bench, ruled: "Parliament must have envisaged that compulsory shifts of persons occupying certain areas would inevitably cause disruptions and, within the foreseeable future, substantial inequalities. Whether this will prove to be for common weal of all

the inhabitants is not for the court to decide. The question before this court is the purely legal one whether this piece of legislation impliedly authorises the more immediate and foreseeable discriminatory results complained of in this case. In my view . . . it manifestly does."

This judgment, writer Alan Dodson observed, led to "two-and-a-half decades of dereliction of duty by the courts which have invariably relied on (the Lockhat case) to reject challenges based on the unreasonable exercise of powers under the Group Areas Act."

Twenty years later, the Appellate Division confirmed the Lockhat ruling when it rejected the defence of people prosecuted under the Group Areas Act, that no alternative accommodation had been available. Chief Justice Rumpff noted sarcastically that the appellant had not been obliged to move to Johannesburg and could return to the Cape where he came from.

In neither of these cases did the ruling indicate in any way that the judges felt compelled to apply laws they considered unjust. In both, the attitude of the court is clearly in favour of the reigning political ideology.

It was only in the late 1980s that individual judges started to take a stand against the manifestly unjust consequences of the Group Areas Act and forced removals. In 1986, Mr Justice Richard Goldstone ruled that a magistrate had a discretion to order evictions under the act, and had to take into account the "personal hardship which such an order would cause" as well as the availability of alternative accommodation. Prosecutions under the act subsequently dwindled.

In the field of security legislation, similarly, the Bench did little to curb increasing executive power and the systematic erosion of the rule of law. It was not until the 1980s that judges started ruling for individual liberties against the abuse of power by the state.

In this, it could be said, judges were merely following the mood of the times. The 1967 Terrorism Act, described by academic Barend van Niekerk as "a negation of what any true lawyer would ever call justice", was voted into law by an almost unanimous Parliament, Helen Suzman being the sole dissenting voice.

The courts behaved according to the mood of their time. In 1964, the Appellate Division condoned the re-arrest and detention of a detainee immediately upon his release after serving 90-days' detention, thus in effect authorising indefinite detention without trial although the law limited the detention time to 90 days. The ruling was not compelled by legislation.

In 1982, the Appellate Division held that a police officer did not have to demonstrate reasons for his belief that a person should be detained, but could pass muster by merely assuring the court of his belief. Again, the court had a discretion to decide whether the police officer was abusing his powers, it chose to give police carte blanche to detain opponents of the state without even having to provide



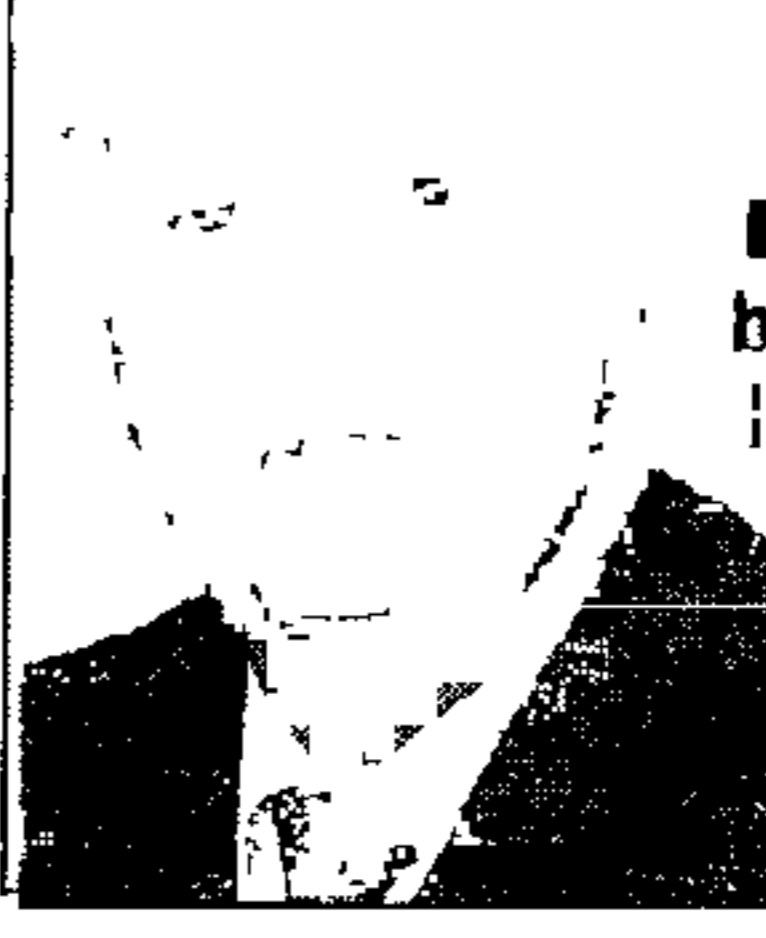
Chief Justice Steyn
 ■ Under his leadership the Appellate Division ruled that racial discrimination under the Group Areas Act was reasonable



Chief Justice Rumpff
 ■ Remarkd if there was a shortage of accommodation in a particular group area persons who could not find accommodation should go back where they came from



Mr Justice Leon
 ■ Could not find extenuating circumstances in the case of Andrew Zondo and sentence him to death, but later turned his back on the death penalty



Chief Justice Radebe
 ■ Gave his official blessing to security legislation which threatened fundamental rights to opponents of the state

good reason
 In 1985, Mr Justice Leon showed the judiciary could do to ameliorate the effects of legislation when he ruled that detention 29 of the Internal Security Act on objective grounds, not merely a assurance that the detention was necessary.
 The imposition of the state of emergency, however, put paid to that, and again it was not to stand up for the rights of the individual. In separate judgments, the Appellate Division ruled that an arrest could be justified by a policeman that it was necessary, in the discretion of a police officer to detain if the natives were available, and that a police officer was not obliged to give reasons for extending the order.

Legal groups criticise judiciary, saying claim to only implement laws is not good enough

e-mail address
According to the lawsuit, Nowak made up - apparently at



Mr Justice Gubbay
in the landmark Govender judgment, he ruled that magistrates had a discretion to order evictions under the Group Areas Act and had to take into account factors such as "the personal hardship which such an order would cause"



Mr Justice Didcott
"The only way that Parliament can ever make legislation just is by making just legislation"

GRAPHIC GAIL IRWIN

been in solitary confinement for 500 days was permissible, effectively validating a pervasive form of torture

Judges not only reinforced some of the worst excesses of apartheid in their court rooms, but in some instances they actively participated in the creation of the framework within which these excesses occurred. Chief Justice Rabie, for instance, was responsible for an inquiry into security legislation which allowed the minister of justice to state confidently when introducing the Internal Security Act in Parliament in 1982 "The bill before this house is the culmination of a thorough investigation into our security legislation by an independent commission of inquiry, which emphasised the necessity for the measures contained in this bill."

The Nadel submission details instances of obvious racial bias in our courts, including a remark by Judge President Van der Riet in 1964 about the "inherent foolishness of the Bantu character". Remarks such as these vividly illustrate that judges are human beings, as prone as the rest of us to the prejudices and orthodoxies of their age. And defendants in their courts sometimes had ground to fear judicial prejudice.

Does the judiciary have something to answer for? In 1982, in a now famous judgment, Mr Justice Didcott showed what could be done even under compulsion of enforcing unjust legislation. Underscoring the arbitrary content of the Bantu (Urban Areas) Consolidation Act, in terms of which a judge of the Supreme Court had to certify that the classification of an unemployed black as an "idle person" who could be arrested was "in accordance with justice", Didcott said: "It may have been in accordance with the legislation and, because what appears in the legislation is the law, in accordance with that too. But it can hardly be said to have been in accordance with justice. Parliament has the power to pass the statutes it likes, and there is nothing the courts can do about that. The result is law. But that is not always the same as justice. The only way that Parliament can ever make legislation just is by making just legislation."

This judgment, Nadel says in its submission, "highlights not only the possibilities available to judges, but also has the powerful effect of a judge's condemnation of unjust laws and the role he was forced to play in implementing them."

"We do not subscribe to the view that judges were powerless in the face of the doctrine of parliamentary sovereignty," the general council of the Bar said in its submission to the TRC.

"Judges do more than merely declare the law. Judges can also play an important role in mitigating the harshness of repressive statutes and in advancing civil liberties"

Not many judges were prepared to speak out as Didcott did. Instead, their acquiescence provided the moral basis the National Party needed to inflict immeasurable suffering on millions of people. Perhaps they should answer for that

that the judiciary of repressive regimes under section 27 of the Constitution to be based on the officer's duty. In 1985, the courts failed. In three instances held a statement that it was at issue whether other alternatives to a detention

The courts also did little to ensure that detainees were kept in humane conditions. In the case of Albie Sachs in 1964, the Appellate Division ruled that detainees had no right to reading or writing materials, that detention without trial was intended to "induce" the detainee to speak and that Parliament did not intend to give detainees a right "to relieve the tedium of their detention with reading matter or writing materials"

In what has been described as "the low-water mark of judicial performance", the 1987 case of Omar v Minister of Law and Order, the Supreme Court upheld emergency regulations which denied detainees the right to legal representation and the right to be heard before the issuing of an order extending the period of detention

In the 1977 case of the State v Gwala, the court ruled that evidence obtained from a person who had

SO
SR
AN
[J]
TO
IN
CO
EC
AN
JA
TR

BY

H

the
gen
jar
leg

cla
sra
We
for
Eas
Trs

just
tho
par
Con

the

7

BY

Ca

De

p

A

Gardener points out truth commissioner and causes a stir

(252)

SA 31/10/97

Cape Town - Truth and Reconciliation Commission investigative unit head Dumisa Ntsebeza insisted yesterday he was the victim of a sinister conspiracy after he was named by a TRC witness as the driver of a getaway vehicle used by the attackers of the Heidelberg Tavern.

Gugulethu gardener Bennett Sibaya caused a stir in the amnesty hearing of three jailed Azanian People's Liberation Army members yesterday when he pointed out Ntsebeza, sitting in the audience, as the driver of the vehicle.

"I don't know if I am mistaken, but I think it is Mr Ntsebeza who was there. I don't know the name, but I know the face," he told an amnesty committee panel chaired by Judge Hassen Mall

Sibaya (57) identified Ntsebeza after walking around the hearing venue at the TRC's Cape Town headquarters to see whether he could recognise the driver among those present.

Norman Arendse, the lawyer for the three applicants, suggested to Sibaya that he had been "put up" to falsely implicate Ntsebeza.

Ntsebeza's own lawyer, Christine Qunta, told Sibaya his testimony was "a tissue of lies fabricated by others".

"What you say is not truthful, except perhaps your name, age and address. Everything else appears to be an utter fabrication," she said during her lengthy cross-examination. Sibaya testified that on the night of the Heidelberg Tavern attack, he saw five youths trans-

ferring weapons from a dark-coloured car to a white Audi in Gugulethu. When the car drove away, he memorised the registration,

I don't know the name but I know the face

XA12848, and picked up a piece of paper that had fallen from the vehicle. The paper contained directions to the suburban pub

The make of car and number plate were later found to correspond with Ntsebeza's vehicle.

In an affidavit released to the media yesterday, Ntsebeza confirmed owning such a vehicle and being on holiday in Cape Town with his partner at the time of the attack.

"I cannot recall any day (or night) that my car was ever lent to anyone, let alone to anyone who had the express purpose of going to attack a target," he said.

"I could never have allowed my car to have been used in the way claimed. I reject these allegations with contempt, and more with sadness than anger."

Earlier yesterday, Qunta suggested that Sibaya had been bribed to implicate Ntsebeza in the tavern attack.

Under cross-examination, Sibaya confirmed owning a house in Kenilworth, worth between R160 000 and R180 000, but said this had been a gift from a German businessman who had left South Africa in 1992.

He also confirmed having R40 000 in a Standard Bank fixed deposit in 1992 but said he had spent this on the construction of a home in Tsolo, in the former Transkei, in 1993.

Ntsebeza told journalists at a media briefing that he believed he was being framed and that he was innocent of any involvement in the Heidelberg attack.

In his report, released to the media on Wednesday, TRC investigator Captain John Lubbe described Sibaya as a truthful and consistent witness - Sapa

Benzién 'faces arrest for crimes against humanity'

(252) ET 31/10/97

RONALD MORRIS

IF people guilty of torture were granted indemnity by the TRC's amnesty committee, it would create a safe haven for international criminals in South Africa

This was the submission of Mr Mike Donen, counsel for some of the victims of self-confessed torturer and perjurer, Captain Jeff Benzien who, with his former commanding officer, Superintendent Wilham Liebenberg, has applied for amnesty

Both men were accused of having tortured detainees, first in the criminal trials of Ashley Forbes and 14 others in 1988 and the following year of Mr Tony Yengeni and 14 others. Both men strenuously denied under oath at the time that they had tortured the detainees

Now, seven years later, again under oath, Benzien admitted that he had tortured detainees to extract information, while Liebenberg said he had assisted Benzien during a torture session

In his evidence to the amnesty committee Benzien was unable to remember details of the acts in which he was involved, but has admitted he tortured Yengeni, Forbes, Peter Jacobs, Nicklo Pedro, Anwar Dramat and Gary Kruser

Yengeni and the other victims are opposing Benzien and Liebenberg's amnesty applications on the basis that they have only admitted to those acts of torture which are already public knowledge and are

covering up the roles and identities of their fellow torturers

As Benzien had admitted to having tortured detainees, he could be arrested for crimes against humanity should he cross the South African border, Donen said

Torture is listed as an international crime and Benzien had applied for amnesty for having tortured detainees

During their trial Yengeni and Kruser had instructed their attorneys to have criminal charges laid against Benzien in the United Kingdom. The Anti-Apartheid Movement was to lay the charges but the process was suspended after Mr F W de Klerk's watershed speech in 1990

Benzién had been given early notice that he would have to account for his crimes in the future (well before his memory failure) and could not complain if a strict approach to his amnesty application was adopted, Donen said

"The torture of Forbes on June 16, 1987 and the use of the wet bag on Kruser cannot be justified. Benzien had been untruthful in his evidence before the TRC concerning Bongani Jonas and the use of the broomstick on Pedro, as well as the electric shocks applied to Forbes

"This affects the credibility of all his evidence, which cannot satisfy the committee," Donen said

"Liebenberg would have the committee believe that as the head of the so-called terrorist unit, he had no knowledge of what his sub-

ordinates were doing to carry out their primary function of counter-ing terrorism

"His evidence that he did not participate in initial interrogations and had not seen the tools of Benzien's trade was highly improbable

"Though he attempts to justify the torture methods used by Benzien, he later admits that in fact torture was simply a method of 'interrogation used by the security police'

Liebenberg had claimed that he had lied at the trials of Forbes and Yengeni essentially to establish the voluntariness of statements made by detainees for the purposes of their prosecution, Donen said

"There is no admission that he lied in other respects at previous hearings. The committee is therefore faced with the difficulty of determining whether a self-confessed perjurer is again perjuring himself to obtain amnesty

"Mr Liebenberg's desire to make full disclosure is again cast into doubt. In the circumstances it is self-evident that Liebenberg has attempted to offer the committee a sop of his actual participation in torture and simultaneously to cover up for his colleagues"

As the applicants had not proven a political motive for their actions, Donen said, they could not be said to have complied with the requirements of the act

TRUTH
RECONCILIATION
COMMISSION

'TESTIMONY IS A TISSUE OF LIES'

I'm a conspiracy victim, says Ntsebeza

CT 31/10/97 (252)

THE LAWYER for three Apla members seeking amnesty for the Heidelberg Tavern attack suggested that Bennett Sibaya had been "put up" to falsely implicate Dumisa Ntsebeza.

TRUTH and Reconciliation Commission investigative unit head Mr Dumisa Ntsebeza insisted yesterday he was the victim of a sinister conspiracy, after he was named as the driver of a getaway vehicle used by the attackers of the Heidelberg Tavern.

Guguletu gardener Mr Bennett Sibaya caused a stir in the amnesty hearing of three jailed Azanian People's Liberation Army members yesterday when he pointed out Ntsebeza, sitting in the audience, as the driver of the vehicle.

"I don't know if I am mistaken, but I think it is Mr Ntsebeza who was there. I don't know the name, but I know the face," he told an amnesty committee panel chaired by Judge Hassen Mall.

Sibaya, 57, identified Ntsebeza after walking around the hearing venue at the TRC's Cape Town headquarters to see whether he could recognise the driver among those present.

At first he pointed out committee member Mr Ntsiki Sandi as a possible candidate, but then dismissed him because his colouring did not match that of the man he had seen on December 30, 1993, the night of the attack.

Mr Norman Arendse, the lawyer for the three applicants, suggested to Sibaya that he had been "put up" to falsely implicate Ntsebeza. Ntsebeza's lawyer, Ms Christine Qunta, told Sibaya his testimony was a tissue of lies fabricated by others.

"What you say is not truthful, except perhaps your name, age and address. Everything else appears to be an utter fabrication," she said during her lengthy cross-examination of the gardener.

Sibaya testified on Wednesday, and again yesterday, that on the night of the Heidelberg Tavern



SADDENED: Dumisa Ntsebeza believes he is being framed.

attack he saw five youths transferring weapons from a dark coloured car to a white Audi in Guguletu.

When the car drove away he memorised the registration, XA12848, and picked up a piece of paper that had fallen from the vehicle. The paper contained directions to the suburban pub.

The make of car and number plate were later found to correspond with Ntsebeza's own vehicle.

In an affidavit released yesterday, Ntsebeza confirmed owning such a vehicle and being on holiday in Cape Town with his partner at the time of the attack.

"I cannot recall any day (or night) that my car was ever lent to anyone, let alone to anyone who had the express purpose of going to attack a target," he said.

"I could never have allowed my car to have been used in the way claimed. I reject these allegations with contempt and more with sadness than anger."

Earlier yesterday, Qunta sug-

gested that Sibaya had been bribed to implicate Ntsebeza.

Sibaya confirmed owning a house in Kenilworth, worth R160 000-R180 000, but said it was a gift from a German businessman who had left South Africa in 1992.

He also confirmed having R40 000 in a Standard Bank fixed deposit in 1992 but said he had spent this on the construction of a home in Tsolo in the former Transkei in 1993.

Qunta said she was puzzled by the presence of such a large amount of cash in Sibaya's bank account, since he only earned about R1 200 a month.

She accused Captain John Lubbe, a member of Ntsebeza's investigative unit, of botching his investigation into the allegations surrounding Ntsebeza.

She said Lubbe had prompted Sibaya to remember Ntsebeza's registration number and had failed to follow up crucial leads. Loose ends in Sibaya's first statement to police had been "tidied up" in his subsequent statement to Lubbe.

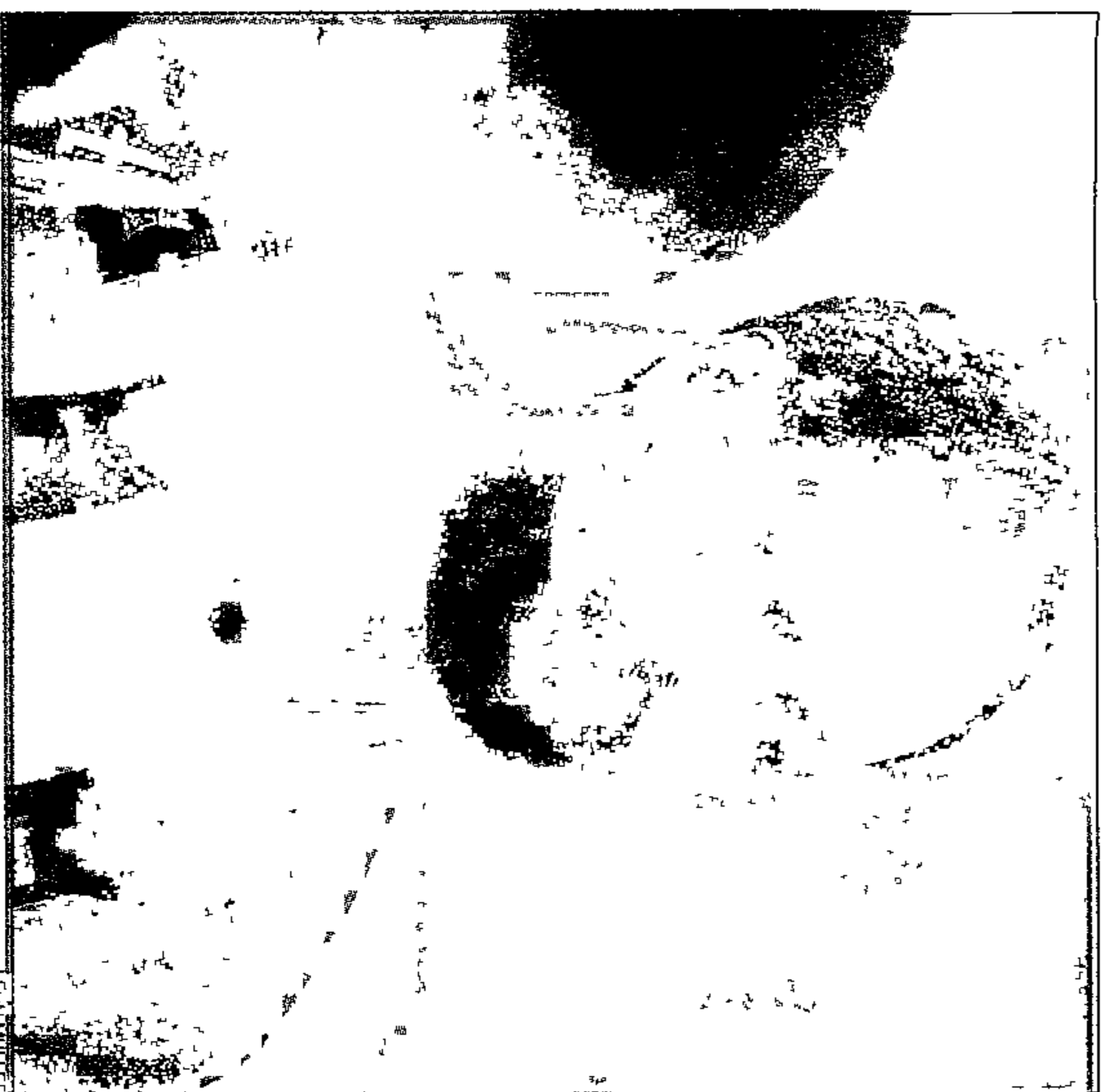
Ntsebeza told journalists at a media briefing that he believed he was being framed and that he was innocent of any involvement in the Heidelberg attack.

TRC chairman Archbishop Desmond Tutu and his deputy Dr Alex Boraine had studied Lubbe's internal report and come to the conclusion it was inconclusive, and that a further investigation by an outside organisation was unnecessary.

Ntsebeza said the "campaign by the police to present me as a warlord is not new". In 1992, his name had been mentioned in a secret communique between a Major-General Coen and then police commissioner General Johann van der Merwe.

He said the communique suggested that his home in Cala in Transkei, and the family's bookshop in the town, were being used as storage places for weapons or as a training base for Apla guerrillas — Sapa

City pub massacre survivors apologise over 'humorous' remarks



LEON MULLER

Strong denial: Truth Commissioner Dumisa Ntsebeza totally rejects the allegations

The survivors of the Heidelberg Tavern attack and the families of the victims have hit out at the chairman of the Truth Commission's amnesty committee, Mr Justice Hassen Mall, accusing him of making humorous remarks at the expense of a witness.

They also say the remarks detracted from the serious nature of the amnesty process and that they feel "disillusioned".

Judge Mall immediately apologised, assuring them he was sensitive to their feelings and that his remarks had not been intended to hurt them in any way. He said the amnesty committee had been listening to "harrowing accounts of terrible deeds" for more than a year.

The accusations were made in a statement signed by 10 of the victims and survivors who have been attending this week's amnesty hearing for four Azanian People's Liberation Army (Apla) members for their attack on the Heidelberg Tavern in Observatory in December 1993, in which four people died and five were seriously injured.

The statement was read at today's session of the hearing by Andrea

YIELD

ON THE TRUTH

Langford of Port daughter Bernae victims

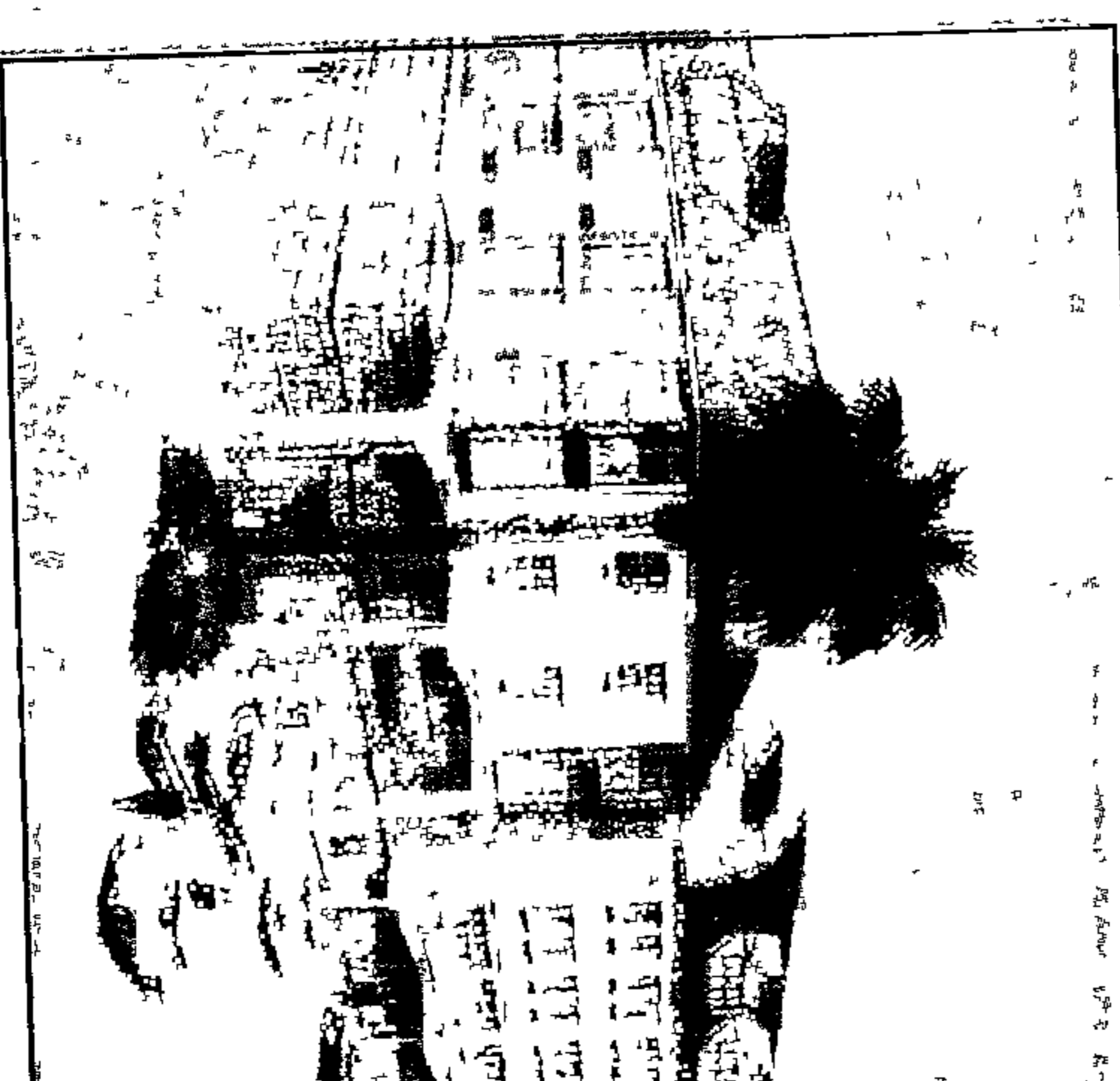
The signatory believe that a pro sure of all the requirements for made by the three

They also said "concerned" by the duct of the proceed to three remarks! Judge Mall during Guguletu garden who alleged he had missioner Dumise second "getaway men

"The reaction Sibaya's expense evoked from the le

Victrix Advertising feature

Keen interest of the new V



Row on democracy bill changes

Mbeki law may spark Constitutional Court fight

CLIVE SAWYER

(252)

POLITICAL CORRESPONDENT

ARG 31/10/97

Deputy President Thabo Mbeki's draft Open Democracy Bill is set for a barrage of criticism, and possibly a Constitutional Court challenge, for scrapping provisions for public access to government meetings.

The latest version of the bill is being closely studied by civil liberties lobby groups worried by the implications of a wide range of important changes to the bill since it last saw the light of day last year.

The draft legislation has also been of deep concern to the multi-million rand advertising and direct marketing industry because of its

provisions protecting private individuals from information about them being used without their consent. Thus could have dire implications for sellers and operators of mailing lists.

The far-reaching changes to the bill are worrying the Freedom of Expression Institute. Institute information officer Raashed Galant said

the changes had been made without reasons being given.

Particularly worrying was the omission of a clause in the previous version of the bill which allowed public access to important government meetings and set strict guidelines for closing such meetings.

"Access to government meetings is an important part of participatory

democracy," said Mr Galant.

In representations on the bill to Mr Mbeki's office, critics are expected to highlight the fact that the provisions of the bill narrow the constitutional rights of "everyone" to any information held by the state and any information held by another person and that is required for the exercise or protection of any rights."

Liquidation day for bid company

Cops target club Rambos



Against amnesty: Francisco Cerquera

Tavern attackers lied about victim being armed,

JOHN YELD
ON THE TRUTH COMMISSION

262

The brother of Heidelberg Tavern victim José Cerquera has told the Truth Commission he is strongly opposed to three Azanian People's

APR 31/10/97
Liberation Army soldiers being granted amnesty for the attack. This is because of the "lies" he says they told when they claimed Mr Cerquera had been armed when he went to investigate the attack on the pub from the family

restaurant next door José Cerquera was shot dead as the guerrillas drove away. One of three Apla soldiers applying for amnesty for their role in the attack, Humphrey Luyanda Gqomfa, has confirmed shooting

Mr Cerquera. He said he heard shots being fired at them as they drove off and returned fire at the restaurant as he stood on the pavement. Francisco Cerquera, who was also in the Cerquera restaurant at

Apla trio want to meet victims

JOHN YELD
ON THE TRUTH COMMISSION

The three Azanian People's Liberation Army (Apla) soldiers who are applying for amnesty for attacking the Heidelberg Tavern in Observatory want to meet the victims and their families in a spirit of reconciliation.

All three expressed remorse for the loss of life in the December 1993 attack, in which four people died. They asked for forgiveness during

this week's amnesty hearing.

One of them, Vuyisile Brian Madasi, told a media conference "I'm looking forward to meeting them so we can reconcile."

The men's legal representative, advocate Norman Arendse, confirmed that a request for a meeting had been put to the victims and their families through the Truth Commission.

"They (the victims) indicated that they were prepared to do so but that the time was not right," he said.

says brother

the time of the attack, said although the Cerqueras had kept a firearm under the till in the restaurant, his brother had definitely not taken it out and police had later confirmed the weapon had not been fired.



Commission member 'drove getaway car'

(252)

CAPE TOWN — Truth commission investigative unit head Dumisa Ntsebeza was named yesterday as the driver of a getaway vehicle used by gunmen in an attack on Cape Town's Heidelberg Tavern in 1993 in which four people were killed.

Guguletu gardener Bennet Sibaya, who has previously linked Ntsebeza's car to the attack, picked out Ntsebeza sitting in the audience at the amnesty hearing for three former Azanian People's Liberation Army cadres. The three have denied meeting Ntsebeza.

"I don't know if I am mistaken, but I think it was Mr Ntsebeza who was there," said Sibaya.

Sibaya has told the hearing that on the night of the attack he saw five men loading weapons from a dark-coloured vehicle into a white Audi in Guguletu.

He said he found a map to Heidelberg Tavern on the road where the car was parked. As the Audi drove off he memorised the numberplate XA12848.

Norman Arendse, the lawyer for the three applicants, told Sibaya he was mistaken in his identification of Ntsebeza. "I want to put it to you that you have been put up to this, to point out Mr Ntsebeza," he said.

Ntsebeza's lawyer, Christine Qunta, said during her cross-examination Sibaya's testimony was a tissue of lies fabricated by others.

Sibaya confirmed owning a house in Kenilworth worth between R160 000 and R180 000, but said this had been a gift from a German businessman. He also confirmed having R40 000 in a Standard Bank fixed deposit in 1992. Qunta said she was puzzled since he

earned only about R1 200 a month.

She accused Capt John Lubbe, a member of Ntsebeza's investigative unit, of botching his investigation into the Ntsebeza allegations. She said Lubbe had prompted Sibaya to remember the registration number and had failed to follow up crucial leads. Lubbe reported to national investigations director Glenn Goosen, who has resigned over differences with Ntsebeza.

Ntsebeza said at a news briefing he was being framed and would not resign. He denied suggestions of a cover-up, or that Goosen's resignation was related to the investigation.

Commission chairman Desmond Tutu has said an independent investigation is not necessary. — Sapa

B0 31/10/97 See Page 2