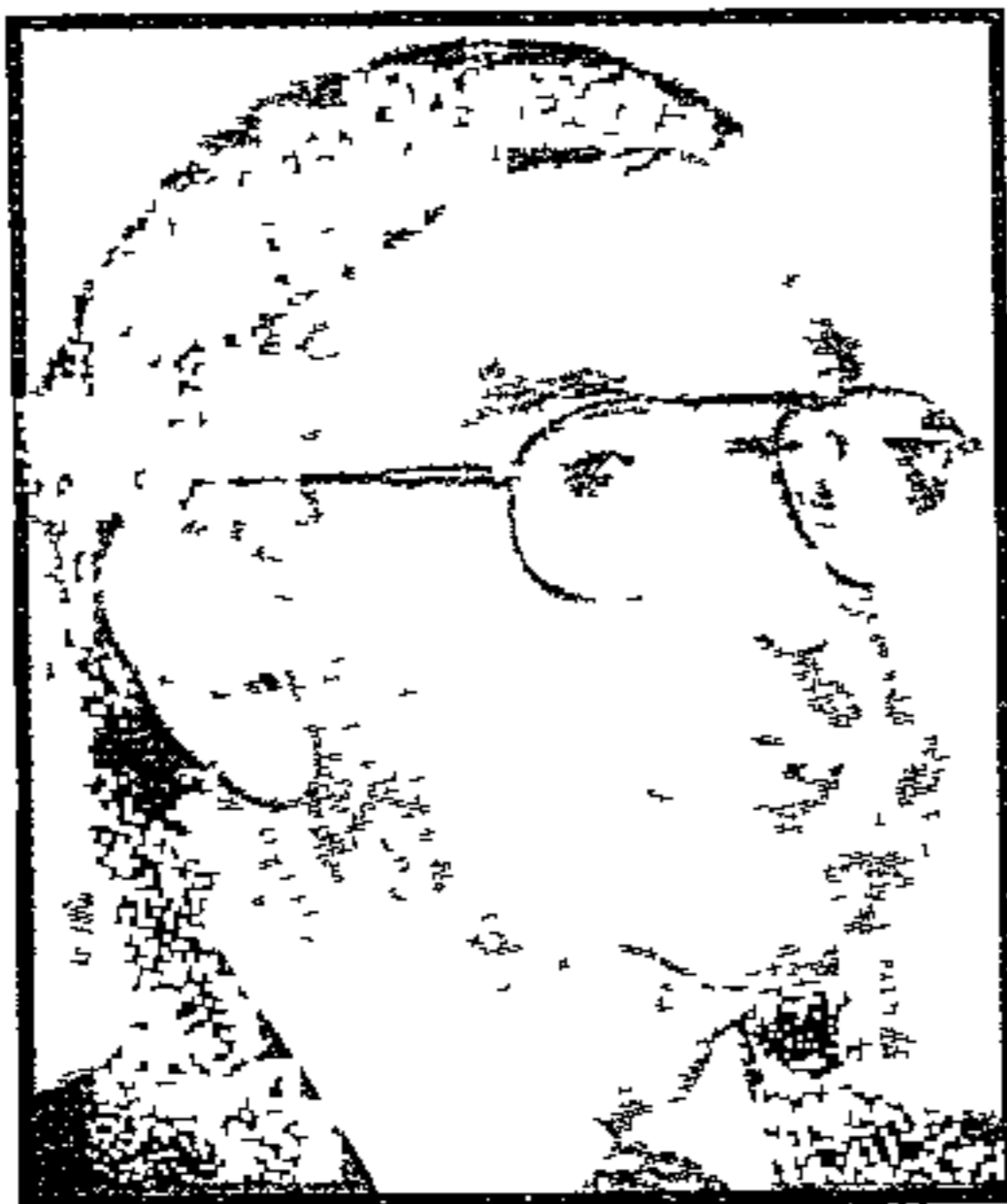


PUBLIC SECTOR-GOVT - JUSTICE

1998 ~~MARCH~~ APRIL.



Steve Biko



Dullah Omar



Trevor Manuel



Cheryl Carolus

The woman who sold out Biko

Pamela Dube
Political Reporter

A woman who allegedly betrayed Black Consciousness leader Steve Biko worked for the security police as late as 1992. She even betrayed her own husband.

Retired policeman Lieutenant GA Fourie wrote this in a letter to Truth and Reconciliation Commission (TRC) chairman Archbishop Desmond Tutu last year.

Fourie said he was willing to reveal the names of all police informers who worked for the security police.

The woman, whose name is known to *Sowetan*, "was well paid for selling out Biko, whom the government and the security police regarded as a real big fish", Fourie said.

Fourie said she got US \$10 000 from the police in 1990 to pursue her studies in the United States. She continued to receive funds when she returned to South Africa in 1992 after she experienced marital problems.

The TRC has said it did not receive Fourie's letter.

Fourie states in the letter that the woman, from Beaufort West in the Karoo, was once a student at the Western Cape College in the late

1960s, and was recruited as a police spy by a Sergeant Small, a Sergeant Beukes, a Warrant Officer Van Wyk and a Colonel Mouton from Caledon Square.

Having successfully provided information on students and teachers in the so-called coloured communities, her information was used to detain and interrogate other anti-apartheid activists such as Stephen Carolus, Harold Dickson and Danile Landingwe (252).

Unity talks

Fourie says around August 1977, the woman reported to the security police that Biko would be on a mission to Cape Town "for a meeting to heal a rift in the Black Power group and also to have unity talks with the African National Congress, the Pan Africanist Congress and the Non-European Unity Movement".

She allegedly also told the police that activist lawyer Griffiths Mxenge intended travelling from Durban to represent the ANC at the meeting.

With the information, Fourie said Van Wyk was on hand to arrest Biko in Cape Town "so we could have a watertight case against him".

The woman then reported back that "Dr Neville Alexander (of the New Unity Movement) refused to

meet Biko. So Biko and Peter Jones, an associate, decided to return to King William's Town".

"She told us they were driving a Peugeot 504 station wagon", Fourie writes in the letter.

Fourie said Van Wyk "was mad" about the new developments and immediately passed on the information to Colonel Piet Goosen in Port Elizabeth and Warrant Officer Hattingh in King William's Town.

He did this so that they could look out for Biko and Jones, hence their arrest outside Grahamstown.

After Biko's arrest, Fourie alleges the woman became active in "the struggle" within the Azapo ranks. She also became close to the likes of Alexander, Justice Minister Dullah Omar, Mr Marcus Solomons, Mr Johnny Issel, Finance Minister Trevor Manuel, Ms Cheryl Carolus (SA High Commissioner to Britain), "giving her lots of credibility".

Meanwhile, Ido Lekota reports that Jones told the amnesty committee of the TRC yesterday that former security policeman Gideon Nieuwoudt lied in his amnesty application for Biko's death.

Jones described Nieuwoudt's evidence to the TRC as "a lie a fabrication". Jones was referring to Nieuwoudt's claim that he had beaten

him with a hosepipe while other security policemen had left the interrogation room.

Jones, according to Nieuwoudt, then confessed to having jointly produced a pamphlet with Biko which incited black people to kill informers and wreak havoc in townships to support the revolution.

Nieuwoudt has presented the pamphlet as part of his evidence.

"I was never interrogated by Nieuwoudt that incident never took place," said Jones.

He said the pamphlet was a fabrication because "as part of a movement which was committed to the development of the consciousness of its people we would never have incited people into complete anarchy".

Jones, now a prominent businessman, yesterday related how he was interrogated non-stop for at least six days after being arrested with Biko on August 18 1977 at a roadblock.

Jones said he was separated from Biko after their arrest and taken to Algoa police station where he was stripped naked, beaten and then pushed under a cold shower.

On August 24, Jones was transferred to the Eastern Cape security police regional headquarters in Port Elizabeth where the interrogation continued.

Sowetan 1/14/98



Part of the group of employees retrenched by private cleaning firms chant solidarity songs outside the Soweto City Council's cleaning department in Mapetla yesterday. They are demanding jobs from the Soweto City Council.

PICTURE BY CLEMENT LEKANYANA

TRC calls on Zulu victims

(252) Soweto 1/4/98
 THE Truth and Reconciliation Commission (TRC) yesterday announced a hearing for victims of the March 28 1994 Shell House shootings that left 19 marchers dead and scores injured when Zulus marched through Johannesburg to demonstrate against the 1994 elections

The commission has asked victims it has not been able to trace to attend the hearing

It says 13 African National Congress members have applied for amnesty for the shootings which

occurred outside its Shell House headquarters and at Lancet Hall in Jeppe Street, its provincial offices

The hearing will be at the Johannesburg TRC offices on May 11 to 22

The commission said it had traced some of the victims, in particular the families of those who died, and was in contact with lawyers acting on their behalf

"However, there are others, especially those injured in the shooting, whom the commission has not been

able to find"

In terms of Section 19 of the Promotion of National Unity and Reconciliation Act, any victim or person with an interest in an amnesty hearing has the right to attend the hearing

Further details of the amnesty applications for the 1994 shootings will be published before the hearing, says the TRC

Victims and the next of kin can contact Dudu Chili on 011-333-6330 or visit the TRC's Johannesburg office at Sanlam Centre - Sapa

STRIPPED, LASHED WITH HOSES

Activist subjected to days of beatings

CT 1/4/98

(2/52)

DETAINEES were given a choice in the colour of hose they would be beaten with while being interrogated, it emerged at an amnesty hearing, **ANDRE KOOPMAN** reports.

FORMER activist Peter Jones described how he was stripped naked, beaten and thrown into a cold shower repeatedly over the course of a few days by teams of inquisitors trying to force him to divulge incriminating evidence about Black Consciousness leader Steve Biko

Jones, who was arrested with Biko at a roadblock outside Grahamstown in August 1997, was giving evidence "before the amnesty committee of the Truth and Reconciliation Committee yesterday

The committee was told about the "twisted sense of humour of Eastern Cape security policemen who gave detainees the option of being tortured and beaten by either a green hosepipe or a black hosepipe. Former lieutenant-colonel in the security police Gideon Nieuwoudt, who is applying for amnesty for beating Jones with a "filled" length of hosepipe, denied that detainees were given a colour option

He admitted that he had beaten Jones with same length of hosepipe. He had used on Biko who died after being interrogated by security



TORTURED: Steve Biko

police during the same period. Nieuwoudt, with four other former colleagues, has also applied for amnesty for his part in the death of Biko who died in September 1977 of head injuries. His application is being heard separately from his four former colleagues because it was found that he had lied during his amnesty application for assaulting activist Mkhusele Jack was later murdered

Jones has insisted that he was never interrogated by Nieuwoudt. Nieuwoudt had beaten him with

out asking questions and always in the presence of other security policemen, Jones said. Nieuwoudt has maintained that he was on his own when he beat Jones

Nieuwoudt has, however, admitted that he severely beat Jones with the hosepipe. He had hit Jones "with all his power", the commission heard

Speaking of Nieuwoudt, Jones said "He was in charge of a green hosepipe that was being applied to me in conjunction with four other people"

Jones said he had had "big visible welts" on his back and buttocks and that his head had been "sensitive" for days after a beating by Nieuwoudt and the four other security policemen

Nieuwoudt has denied that the hosepipe was filled and that he routinely beat detainees. He had claimed earlier that the hosepipe belonged to a colleague who used it for siphoning petrol

Nieuwoudt is out on bail pending his appeal on a murder conviction stemming from the Mother's Well car bombing in which three policemen and an informer were killed

Jones was cross-examined by Mr K Booyesen for Nieuwoudt about the hosepipe with which he had been tortured. He denied that



TORTURED VICTIM: Cape Town businessman Peter Jones tells the Truth and Reconciliation Commission how he was tortured by teams of security policemen

PICTURE ALAN TAYLOR

the hosepipe was about a metre long, saying it was about half-a-metre and "good to handle"

Jones told the committee that after he and Biko were arrested at a roadblock in Grahamstown they were taken to security police headquarters in Port Elizabeth. He had been beaten by the same five security policemen who had beaten Steve Biko

Describing his torture Jones said "When I arrived they started manhandling me and slapping me around

"I was taken back to one of the cells where they stripped me

naked, beat me while they shouted at me and put me in a cold shower. This treatment continued for the next few days"

He told how he had initially resisted this treatment and that he had pulled security policemen into the shower but later decided this "wasn't the wisest thing to do"

He said he was tortured and interrogated by teams of security policemen

Describing an infamous method used by security police interrogators, Jones told the commission that he was forced to balance naked on two half-bricks

while holding two chairs above his head

When he denied any knowledge off a political pamphlet allegedly written by Biko, the security policemen became angry and Captain Harold Siebert kicked him. All five security policemen in the room then "viciously assaulted" him, Jones said

"Siebert stood in front of me hitting my face. Nieuwoudt was to the left and rear attacking my head and back with a green hosepipe, while Benke was hitting me on the back and bottom with a black hosepipe," Jones said

'Brainless people

destroyed champion'

ANDRE KOOPMAN

CT 1/4/98

NKOSINATHI BIKO, son of Black Consciousness leader Steve Biko, who died after being interrogated by security police, said yesterday he and his family would have to "dig very deep within ourselves to grant forgiveness" to the security policemen involved in his death

Mr Biko was speaking after the conclusion of hearings in which five security policemen applied to the Truth and Reconciliation Commission for amnesty for Steve Biko's death in detention in 1977

Flanked by his mother Ntshiki and brother Samora at a press conference yesterday, he said his family would oppose the amnesty application and reserve their constitutional right to restitution

It was possible the security policemen had committed perjury at the hearings, Biko said

"Our aim here was to ensure that the nation does not absolve people who do not meet the requirements of the TRC"

He said the amnesty process had been "very stressful", as the family had been seeking "the truth and facts" about his father's death for more than 20 years

City businessman Mr Peter Jones, detained and tortured at the same time as Biko, said yesterday it was clear to him the security policemen had "orchestrated" their submissions. He accused them of "covering up for each other"

Biko said there had been many discrepancies between the evidence of the applicants and the "medical evidence that explains Steve's death"

The five security policemen have all maintained that Biko — who died of brain damage — received head injuries after hitting his head against a wall while grappling with security police interrogators during detention at Port Elizabeth in August 1977

"What happened in room 619 (where Biko was tortured) is known only to the applicants and the four walls", Biko said

There had been "clear omission of some events which had to be extracted" from the policemen by counsel for the family Mr George Bizos. The applicants had not made "full disclosures" about the circumstances of his father's death

While the family was not opposed to the amnesty process, they had not yet arrived at "the truth" after many years

"There are a lot of reasons for forgiveness. I think we should forgive, not just for forgiveness' sake but for the sake of making a difference to the country," he said

Jones said the former security policemen, "did not have the decency or sense of morality to come clean"

"A real champion of the country was just destroyed by brainless people," he added

"They attempted, not to tell the truth, but to show how other people, on technical aspects, could have been wrong"

● TRC investigator Mr Dumisa Ntsebeza said yesterday the TRC would release a press statement today about a mystery letter that identified a woman who allegedly "sold out" Steve Biko, which was sent but never received

Evidence about beating untrue, TRC told

Former Black Consciousness leader gives his version of interrogation by security police

By JOHN YELD
Cape Town

Former security policeman Gideon Nieuwoudt's evidence to the Truth Commission on Monday was "a lie, a fabrication", former Black Consciousness leader Peter Jones said yesterday.

Referring to Nieuwoudt's testimony that he had beaten him not more than 10 times with a green hosepipe while other security policemen in the interrogating team had been out of the room, Jones said: "I was never interrogated by Nieuwoudt . . . that incident never happened."

Nieuwoudt is one of five former security policemen seeking amnesty for their part in the death in detention of Black Consciousness leader Steve Biko in 1977. The others are then-colonel Harold Snyman, captain Daan-

Die Siebert and warrant officers Johan Beneke and Ruben Marx.

Nieuwoudt, who is on bail pending an appeal for his murder conviction for blowing up three black colleagues and an informer at Motherwell, is the only one applying for amnesty for assaulting Jones, who was arrested with Biko at a roadblock outside Grahamstown in August 1977.

Jones, who was detained for 533 days and banned when he was released, told the amnesty committee yesterday he was interrogated in the same small room in security police headquarters in Port Elizabeth where Biko sustained the injuries that eventually killed him. He said he was taken to the room at about 10pm on August 24 1977 and handcuffed naked to a steel chair.

Snyman and Siebert questioned him and, at one point, Siebert assaulted him. "He jumped up and

started hitting me with the open hand and with a hosepipe on the chest, face and back. It looked like and felt like a filled hosepipe."

He was left there that night in the company of two coloured security policemen and the following morning the interrogation by the five white security policemen resumed. He said he was instructed to stand on two half-bricks, holding two steel chairs above his head. When he continued denying any knowledge of an inflammatory pamphlet allegedly written by Biko, the policemen became angry.

"Siebert got up and kicked me on the leg. By that stage the chairs had long come down to my shoulders because I couldn't keep them up. One chair fell down and struck Snyman and one struck Siebert, who started shouting and asking me if I wanted to fight. "He started kicking me. I grabbed

his hands and pulled them down and told them there was no need for this, I would co-operate." Jones said he was then handcuffed.

"Siebert removed his watch, rolled up his sleeves and started hitting me with an open hand, heavy blows for a long period. This led to a vicious assault by all five people in the room.

"Siebert stood in front of me, hitting my face. Nieuwoudt was to the left and rear, attacking my head and back with a green hosepipe, while Beneke was hitting me on the back and bottom with a black hosepipe. During this massive assault I was moving all over the room and falling. I eventually ended up against the wall. Everyone was panting, and me moaning and groaning to one side as a result. They then asked if I was ready to give a satisfactory statement and I indicated 'yes.' The hearing is continuing.

STAR 1/4/77

(252)

Activist says police still lie about Biko

BD 1/4/98 (252)

CAPE TOWN — Robert Cyril Jones, the activist arrested and beaten by police along with Steve Biko, said in Cape Town yesterday he was amazed police were still concocting stories about how the black consciousness activist died.

Jones, who spent nearly 18 months in detention after his arrest with Biko, was testifying at the truth commission's amnesty hearing of former security police colonel Gideon Nieuwoudt.

Jones said he was arrested with Biko at a road block near Grahamstown in August 1977. He said he was taken to an isolated room at the police offices in Port Elizabeth where he was interrogated by Lt Daan Siebert and Maj Harold Snyman.

He said his clothes were removed and he was tied to a steel chair. He was questioned about his involvement in the Black Consciousness Movement and why he was with Biko when he was arrested.

When he told the police he was on his way to Cape Town on business, Siebert struck him in the face with an open hand and then with a hosepipe. Jones then admitted that the trip had a political motive and Biko was traveling to Cape Town to sort out problems in the Black People's Convention.

They then left him to make a statement about his history in politics.

Jones said he wrote a false statement that contained a story he and Biko had agreed to use if arrested. He said the real reason for Biko's trip to Cape Town was to try to unite the liberation movements, but he did not mention this.

He said the policemen did not believe his statement and told some coloured policemen present to "put him on the bricks". He had to stand on two half bricks, holding steel chairs above his head. He was warned that if he dropped the chairs he "would get it".

Jones said the coloured policemen were told to leave and Nieuwoudt and warrant officers Johan Beneke and Rubin Marx were called in, while Siebert and Snyman continued asking questions about a pamphlet the activists were alleged to have distributed.

Jones said the policemen became angry when he denied any knowledge of the pamphlet and Siebert kicked him on the leg. He dropped the chairs and they struck the policemen. The policemen then beat him with hosepipes. They then asked whether he was ready to give a satisfactory statement. He agreed and gave second statement admitting knowledge of the pamphlet.

Nieuwoudt has admitted to assaulting Jones and Biko in detention. His amnesty application is being heard separately from those of the other policemen involved.

Asked how he felt about the policemen who had applied for amnesty for Biko's death, Jones said "I do not wish them well, but I do not wish them ill."

"I find it amazing that they have been able to concoct new versions before the truth commission and the public as to how Biko died."

Earlier Biko's son, Nkosinathi, said it was clear from the contradictions in reports of his father's death that the truth was not being disclosed — Sapa

TRC is biased, says FW

Sowetan 2/4/98 (252)

LAS CRUCES, New Mexico — Political tensions still exist in South Africa and the Truth and Reconciliation Commission may not make a major contribution to national harmony, said former president FW de Klerk

During a visit on Tuesday to Las Cruces, he said the TRC has demonstrated "a lack of impartiality by showing much less fervour to investigate the transgressions and those violations of human rights from other sides, and they've concentrated rather heavily

just on what the (Afrikaner) security forces did"

De Klerk also was critical of President Nelson Mandela's comments late last year that De Klerk's "new" National Party had not really changed

Nobel Peace Prize

It was during De Klerk's administration that apartheid ended in the early 1990s. De Klerk was awarded the 1993 Nobel Peace Prize along with Mandela, the anti-apartheid crusader

who was imprisoned for 27 years until De Klerk freed him in 1990

Economic problems continue to plague South Africa, he said

South Africa needs to boost its economy — 5 percent annual growth being the target — to lower an unemployment rate that has been estimated to be as high as 35 percent. And it must instil confidence among investors

De Klerk said a majority of blacks still live far below the economic level of whites — *Sapa-AP*

PW lays charge against doctors over disclosure to TRC

(253) *stov 2/4/98*
Former state president P W Botha has laid a charge with the South African Medical and Dental Council against two doctors who divulged information regarding his state of health

Botha's legal representative Ernst Penzhorn said last night

Botha was enraged that the information had been passed on to the Truth and Reconciliation Commission and the attorney-general in the form of affidavits without his permission

The affidavits, made by two retired neurologists - professors Derek Philcox and Kay de Vil-

liers - cite Botha's stroke, suffered nine years ago, as reason for the TRC to withdraw its case against him.

"We believe disclosing the information constituted a breach of confidentiality between patient and doctor," Penzhorn said - Staff Reporter

Call for bomb victims to (257) ⁽²⁵⁷⁾ come forward

PAULA FRAY CT 2/4/98

JOHANNESBURG: A series of ANC-inspired bombings which rocked South Africa during the 1980s will be the subject of amnesty hearings before the Truth and Reconciliation Commission next month.

Among the incidents for which ANC members or supporters have applied for amnesty are the 1983 Church Street bomb in Pretoria, the 1988 Ellis Park bomb, the 1986 Magoo's Bar bomb and the 1988 bombing of the Krugersdorp Magistrate's Court.

In advertisements placed in newspapers throughout the country today, the commission appeals to victims or relatives of victims of those incidents to contact the amnesty committee.

TRC spokesperson Mr John Allen said efforts by the commission to trace the victims have been fruitless. In terms of TRC legislation, victims have a right to be represented at amnesty hearings and they may apply for financial reparation. The commission regards victims as people, or their relatives, who have personally suffered injury.

In other advertisements, the commission called on victims of 30 attacks carried out by amnesty applicants declaring allegiance to the Inkatha Freedom Party to come forward. The incidents cited include attacks in KwaZulu-Natal on homes, villages, buses or bus stops and a shebeen.

Victims are asked to contact the Executive Secretary, Amnesty Committee, TRC, PO Box 3162, Cape Town 8000. The telephone number is (021) 24-5161, or fax (021) 22-2221.

Botha irate over health disclosures

CF 2/4/98

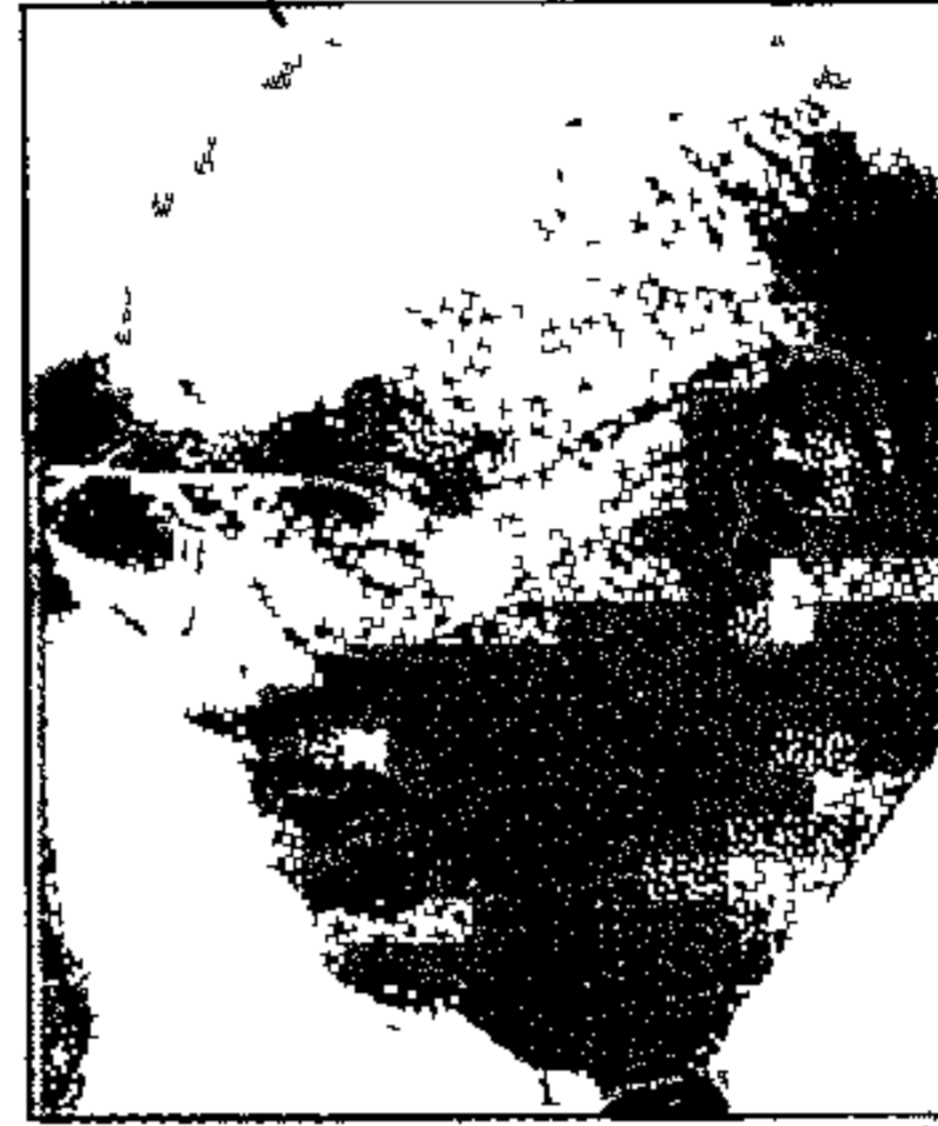
(2/4/98)

FORMER president P W Botha yesterday handed a formal complaint to the South African Medical and Dental Council (SAMDC) about the disclosure of confidential information regarding his health and illness in January 1989.

Botha was of the opinion that the information contained in affidavits in this regard — given to the Truth and Reconciliation Commission and the attorney-general without his permission — constituted a breach of confidentiality between patient and doctor, he said in a statement issued by his lawyers

Botha asked the SAMDC to investigate the matter in terms of their professional rules

The affidavits made by two retired neurologists — Professor Derek Philcox and Professor Kay de Villiers — cite Botha's stroke as reason for the TRC to withdraw the



IRATE: PW Botha

case against him for refusing to appear before it.

Botha has also questioned the TRC's motives because of the manner and timing of the publication of the affidavits — Sapa

Barnard had 'bag of tricks' ready

(257) CT 2/4/98
PRETORIA: Ex-CCB operative Ferdi Barnard had a "bag of tricks" in which he kept a balaclava, surgical gloves and other items, ready for when the opportunity arose to kill Wits activist Dr David Webster.

This evidence was given yesterday under cross-examination in the Pretoria High Court by Barnard's former girlfriend of nine years, Ms Brenda Milne.

Milne told the court that after Barnard came back from killing Webster on the morning of May 1 1989, he told her he had to get rid of the "bag of tricks" and the shotgun that he had used in the killing.

Asked by Barnard's advocate Mr Faan Coetzee exactly how Barnard told her that he had shot Webster, Ms Milne said he had just volunteered the information.

She said she had not been surprised when he told her, as Webster's name had been on his hitlist and on several occasions he had told her he would kill the activist if he got the opportunity.

"He never told me how he was going to kill Dr Webster, but I knew there was no shortage of ways," she said.

Although she had been shocked by the killing, she had

believed it was part of Barnard's job. She had been more upset that he had used her car when he shot Webster.

"I was pretty scared of him after this incident," she said.

Milne told the court the fact that Barnard had a hit list, was no secret. He had trusted her and talked a lot about what he was doing.

"The list did not bother me. It was nice to be trusted by Barnard. I thought he was very important working for the government who protected us from the enemy," she said. The trial continues — Own Correspondent

Barnard's girlfriend kept notes on him for protection

BD 2/4/98 (252)

PRETORIA — Brenda Milne, who was for nine years the girlfriend of former Civil Co-operation Bureau agent Ferdi Barnard, kept notes about his activities to protect their son, the Pretoria High Court heard yesterday.

In her second day of testimony, Milne said she told her father to pass the notes on to the authorities if anything should happen to her or their son.

Under cross-examination, Milne was emphatic that Barnard confessed to her on May 1 1989 that he killed anti-apartheid activist David Webster. She said he also told her that he almost killed Justice Minister Dullah Omar a few months later.

Barnard is facing a number of charges, including the murder of Webster and the attempted murder of Omar.

Milne described life with Barnard as a round of drugs, illegal deals, forced isolation and emotional abuse. She knew he had shares in some night clubs

Not trusted

"He was not doing an honest day's work. He was beating up people and sorting out liquor licences that weren't supposed to be there. A lot of the money went to drugs as well.

"When I fell pregnant, I told him he was not to jeopardise my family. He was using a lot of drugs and at that time I also found out about his affair with Amore Badenhorst, so I felt that I was justified when I started keeping notes about him.

"I told him from the beginning of 1994 that I was going to leave him, but he refused to let me go and threatened me very badly. I kept the notes to ensure our safety and to allow us to go.

"I gave the notes to my father with instructions to give them to the authorities if anything happened to me. I didn't want my son to grow up with that man. I wanted the world to know what kind of a man he was and what he did," Milne testified.

She claimed her father approached Judge Richard Goldstone after he received threats and Barnard had started so-called projects to have her father eliminated.

She said they did not trust the police because tapes she made of Barnard's threats to her, her father and Barnard's associate, Corrie Goosen, landed

up in Barnard's hands through the police. She and her father eventually took her notes to a trusted person in the attorney-general's office.

"The purpose of the notes was purely to prevent him from ever getting custody of my son. I never dreamt I would be testifying," she said.

Milne said Barnard was quite open about his line of work with her, probably because he trusted her. He told her the purpose of monitoring people was to have them killed eventually.

She said she saw a hit list in his possession.

"His type of work didn't bother me. I thought he was working for the government and protecting all of us. The first person we monitored was Webster.

"I went with him a few times, not to assist him, but to be with him. Prior to the incident, the accused specifically told me if he ever got the opportunity, he would kill Webster.

"It started off as an average, normal day. The accused left early and said he was going to monitor Webster's house with Calla Botha. It was strange that he used my car that day because he had his own car, but I had no choice. He returned close to lunch time and told me he'd shot Webster with a shotgun.

"It was quite shocking because it's a very criminal thing to happen in your own house. To kill someone is a horrendous thing to do.

"When he told me he had killed Webster I believed he was doing his job, but to me it was illegal because he wasn't supposed to do what he did when he did it. Webster's killing was not authorised.

"He told me he didn't have orders to do it. It was important for him to look like a big deal to his bosses. He wanted to prove he had what it took to be an assassin. I wasn't comfortable accompanying him on monitoring jobs after that, but I did go."

She said Barnard's denial that she accompanied him, and his denial that he had confessed to Webster's murder and Omar's attempted murder to her, were lies.

The trial continues
— Sapa

Pityana faces court challenge

Vuyo Mvoko

CAPE TOWN — Human Rights Commission chairman Barney Pityana was set to face a court challenge for allegedly refusing to reinstate Western Cape commissioner Rhoda Kadalie, it emerged yesterday.

Confirming that preparations for the case were on course, an angry Kadalie said she intended suing for unfair labour practice and loss of a job opportunity.

"Parliament is allowing Pityana off the hook. I have sent three letters to the president. I'm angry. My role speaks for itself," she said.

Kadalie said she resigned last year because the commission was conflict-ridden, lacked vision, had no cohesion, and suffered from poor leadership as its chairman was continuously absent.

In a newspaper interview last year Kadalie said she had not been satisfied with the way Pityana "protected" commission CEO Louisa Zondo when criticisms were levelled against her. She said she was also not happy with

Pityana's handling of her letter detailing proposals on how to resolve the commission's problems.

Kadalie said that at a meeting with Pityana on December 25, when she was serving the last few days of her three-month notice, Pityana said he was sorry that her grievances had not been well-handled, and said he would reinstate her. "I then declined a (another) job offer," Kadalie said yesterday.

On Tuesday, Deputy Justice Minister Manto Tshabalala-Msimang, responding to a question during a sitting of the National Council of Provinces on what had happened to Kadalie, said Kadalie had unsuccessfully "attempted to withdraw her resignation", but pointed out that the letter indicating her intention was dated January 4 1998.

Kadalie said the January 4 letter was "simply to confirm the verbal agreement" reached on December 25.

Tshabalala-Msimang told the council of provinces that Pityana had "consulted" with the offices of the president and of the secretary to parliament "to estab-

lish the status of Kadalie's membership of the commission", and legal opinion given by both offices was that Kadalie was effectively no longer a member of the commission.

Tshabalala-Msimang said Kadalie then instructed her attorneys to "demand" her reinstatement on the basis that she had made "a plea" to Pityana on December 25 and on the same day told other people of her intention to withdraw her resignation.

The essence of Kadalie's contention, Tshabalala-Msimang said, was that it was "a mere oversight" on her part to have written the letter in which she purported to withdraw her resignation on January 4.

Tshabalala-Msimang said Kadalie argued that "her intention should weigh heavier than the technicality being applied in relation to the date".

Tshabalala-Msimang told the council this week that Kadalie would be billed for the use of a cellphone she returned only in the first week of March instead of in January.

s,guawstjog se 'vaperetevew

Ferdi's 'bag of lethal tricks'

Former lover tells of items used in Webster killings

ARGUS CORRESPONDENT

Pretoria - Former CCB-operative Ferdi Barnard had a "bag of tricks" in which he kept a balaclava, surgical gloves and other items, ready for when the opportunity arose to kill Wits activist David Webster.

This evidence was given yesterday under cross-examination in the Pretoria High Court by Barnard's former girlfriend of nine years, Brenda Milne

Ms Milne told the court that after Barnard came back from killing Dr Webster on the morning of May 1, 1989 he told her that he had to get rid of the bag of tricks and the shotgun that he used in the killing.

Asked by Barnard's advocate Faan Coetzee exactly how Barnard told her that he had shot Dr Webster, Ms Milne said he had just volunteered the information.

She told the court that she was not very surprised when he told her that he had shot Dr Webster.

According to Ms Milne, Dr Webster's name was on Barnard's hitlist. She said Barnard had told her on several occasions that he would kill the political activist if he got the opportunity.

"He never told me how he was going to kill Dr Webster, but I knew that there was no shortage of ways how to kill him," she said.

Although she was shocked by the killing, she believed it was part of Barnard's job, Ms Milne said.

She told the court she was more upset that Barnard used her car when he shot Dr Webster with a shotgun through the car window.

"I believed what he had done was illegal, because he did not get authorisation from the CCB to shoot Dr Webster."

"He told me he had done it to prove to the organisation that he had what it took to be an assassin.

"If he had had authorisation from the CCB I would have seen the killing as being legal. I was pretty scared of him after this incident," she said.

Ms Milne told the court the fact that Barnard had a hit list was no secret. She said he trusted her and he talked a lot about what he was doing.

"The list did not bother me. It was nice to be trusted by Barnard. I thought he was very important - working for the government, who protected us from the enemy," she said.

Ms Milne said she was never very happy in her relationship with Barnard.

She said when she wanted to leave him he threatened her. She was also not allowed to work or to see her family and friends. People were afraid to come to their house and she was totally isolated from everyone.

"I decided to secretly keep notes on the important things he did. I did this for my son and never to turn it against Barnard. I did not for one moment dream that I would today give evidence against him.

"I did not want Barnard ever to get custody of our child. I also realised that I could not subject a child to this way of life - that is why I wanted to

leave him.

Ms Milne said she kept the notes she made about Barnard's alleged crime at her father's house, in case something happened to her.

Her father later gave the notes to the police when his life was in danger. Ms Milne said one of Barnard's projects was to eliminate her father.

She said she also took photographs of Barnard passed out in a drugged state, with drugs lying around him.

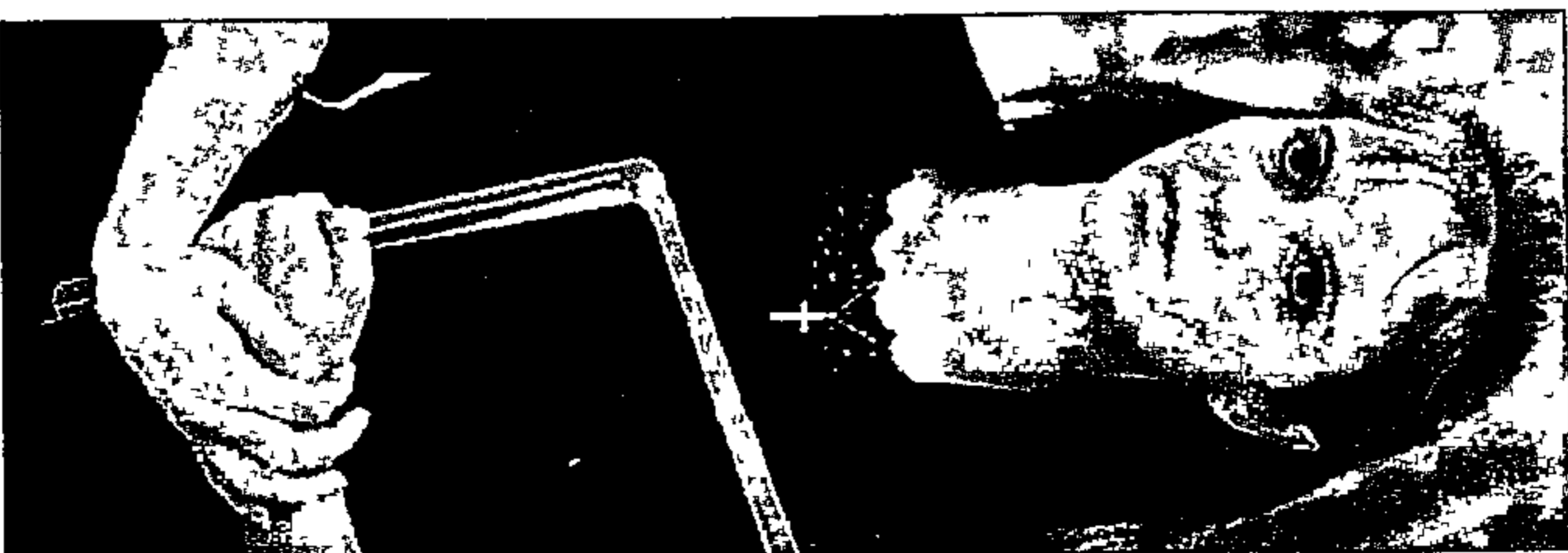
The reason for this was to prove that Barnard was a drug addict, Ms Milne said.

She said the fact that Barnard was addicted to pornography had upset her.

Mr Coetzee, however, said his client would deny this.

He said according to Barnard he had to review pornographic videos before they were shown in his club, to make sure that there was no child pornography.

Ms Milne replied that Barnard used to watch the videos for up to 18 hours while using drugs.



Trusted: Brenda Milne

Former Apla man says he's sorry for attacks on whites

(2/17/98) ART 2/14/98

East London - Former Azanian People's Liberation Army member Dumisani Ncamazana has told the Truth Commission's amnesty committee he is sorry for his part in terror attacks on whites in East London shortly before the 1994 elections, and asked the victims' families for forgiveness.

Ncamazana and Zukile Mbambo are seeking amnesty for their roles in three attacks in March 1994.

The two are serving lengthy jail terms for a machine-gun attack on a vehicle on the Berlin-East London road, a hand-grenade blast at the Highgate Hotel and an attack on a Da Gama Textiles bus transporting employees.

Ncamazana, 22, told how the attacks were planned at Mama's Restaurant in Butterworth under the instructions of a commander, Jimmy Jacobs.

He said his accomplices, some of whom had since died, began their "total annihilation" mission with a machine-gun ambush of a minibus ferrying white teachers to the John Knox Bokwe College in Mdantsane township on March 11 1994. They then fled.

Responding to a question, he said that as "soldiers" they were not there to differentiate between their intended victims' nationalities. But "as long as they were white, they were regarded as part of the enemy and supporters of the regime".

There were other attacks, including the shooting-up of the Da Gama Textiles bus ferrying about 40 employees on March 28. A policeman and two of the Apla men died in that attack.

No one was injured in the grenade attack on the Highgate Hotel.

The hearings continue today. - Sapa

Need money?



Barnard: State case nears end

(252) CT 3/4/98
OWN CORRESPONDENT

PRETORIA The state is expected to close its case today in the trial in which ex-CCB operative Ferdi Barnard is facing 34 charges, including the unsolved murder of Wits University academic and activist Dr David Webster

Mr Anton Ackermann, SC, for the state, indicated that he would call his last witness today

Since the trial started on February 2 this year Pretoria High Court Judge Johan Els has heard various witnesses giving evidence about Barnard's alleged life of crime in the shadowy underworld of drugs and prostitutes. There were allegations about a hit list that Barnard kept on which the names of people to be assassinated appeared

Barnard's former partners — all four were blonde women — turned against him in court, and testified that he made no secret about the fact that he had killed Webster. They said he often spoke about the killing

The opening witness, Ms Amor Badenhorst, one of Barnard's ex-girlfriends and mother of his daughter, said Barnard often con-



VICTIM: David Webster

fessed that he had killed Webster

Ms Maryna Language, ex-wife of the accused, said during the trial that several of Barnard's friends in the underworld warned that his big mouth would get him into trouble

The slim and attractive women — who all turned into brunettes or redheads for their court appearances — were close to tears about the fact that they were giving evidence against the man they once loved. They said they did not choose to turn against him

They were all whisked away to

safety by the investigating team after completing their evidence, to start a new life under the government-sponsored witness protection programme, "out of fear of Barnard's friends"

The court has also heard various witnesses giving evidence about Barnard's addiction to cocaine and later to crack. They said he had spent thousands of rand a day on his habit

Barnard, who at times stared at the witnesses while they were telling the court of his alleged crimes, seemed relaxed during the trial. He even laughed during the lighter moments, for example when Ms Brenda Milne, his girlfriend of nine years, told the court that he could not even change the tyre of a car

Barnard, through his advocate, has denied all the charges. He pleaded not guilty to charges of murder and attempted murder, a robbery charge, various charges of fraud and intimidation and house-breaking

Senior Superintendent Casper Jonker, a member of the D'Oliveira special investigating team, is due to give evidence today

Seremane's truth crusade hits ANC

Mail & Guardian reporter

Chief land claims commissioner Joe Seremane is threatening to take the government and the African National Congress to the International Court of Justice in a desperate attempt to solve the murder of his younger brother, Timothy Seremane, at the infamous ANC Quatro camp in 1982.

Seremane's latest salvo against the ANC was sparked by the Truth and Reconciliation Commission's inability to clarify the ANC's submission on his brother's death.

Last year, Seremane wrote to truth commission chair Desmond Tutu querying a two-page "summarised report" on the killing. He claims he has not heard from the commission since — "not even an acknowledgement of receipt of my letter".

Worded in typical mid-1980s police language, the ANC submission is tightly summarised, and refers to people involved by their initials only.

"Kenneth Mahamba [Timothy Seremane's Umkhonto weSizwe (MK) name] was sentenced to death by an ANC tribunal and executed in 1982 together with other fellow enemy agents," reads the document. It alleges Seremane was an apartheid agent who smuggled in-

(252) M+Q 2-8/4/98

formation to his police handlers. "Seremane was recruited by Sergeant M of the SB [security branch], Mafikeng, whilst ... residing at Mafikeng. Sergeant M offered Seremane immunity from criminal charges of destruction of government property. Was also to earn several thousands of rands. Seremane's personal and family safety was to be guaranteed. Was also to receive a house and a car."

Joe Seremane wrote to Tutu: "The ANC response merely read like further vilification of my late brother and similar victims of Quatro camp who cannot defend themselves now. "Furthermore, the reasons raise further questions to me, my family and relatives. The questions are also as a result of the truth commission furnishing me with an edited version of the response and protecting the identities of other people mentioned therein ..."

Seremane this week repeated his plea to get the truth. "All I want is the truth — where my younger brother is buried, after which I want his remains, access to the records of the trial, how he was tried, what kind of a trial it was and who presided over the trial. That is all I want."

"Even if they had hanged him for rape, I would still need his bones." The ANC claimed apartheid

agents trained Seremane between October and December 1976 before he joined the movement in exile.

"Training included espionage, communication, assassinations, engineering, firearms, photography and counter-insurgency activity."

The ANC document claims Seremane reported to a "TM" while in exile. "He [TM] was already the chief as far as enemy operations were concerned. Another six persons are mentioned by name. All information was to be passed on to Sergeant M through one or other of the above contacts."

In its attempts to brand Seremane an apartheid agent, the ANC sketches incidents in which he supposedly handed information and arms to his handlers.

"In 1979, together with C and two others mentioned by name, Seremane stole weapons from the camps which were then taken to Luanda and then hidden at JD's girlfriend's place. These weapons, first disassembled, were ferried to Luanda using travelling or shopping bags."

Seremane and his unit also allegedly destroyed a Land Rover and an ambulance, "embezzled funds on personal luxuries, stole and sold army property including a service pistol — which was sold through GP, a commissar at Gubaxa"



Joe Seremane: Threatening ANC with International Court of Justice

While a camp commander, Seremane also allegedly ordered the beating of a soldier who later died.

But Joe Seremane has struck to his guns, questioning the entire ANC report. Central to his questions is why no names are mentioned in it.

"To my knowledge Timothy was never employed by the West Rand Administration Board. Timothy was never a Mafikeng resident."

Seremane asked the commission who Sergeant M was. He wanted to know what government properties

his brother destroyed and, if he was charged, where the police docket was.

Three of Seremane's alleged killers — now high-ranking military generals and intelligence officers — last week appeared before the truth commission.

One of the officers, the National Intelligence Agency's Gabriel Mthunzi Mthembu, was last year named in affidavits by two former MK guerrillas as part of a group that tortured Seremane's brother.

Witnesses too scared to testify against Barnard, court told

The Pretoria High Court has been told that several witnesses in the trial of former Civil Co-operation Bureau operative Ferdi Barnard have declined to give evidence because they fear for their lives. Barnard is facing 34 charges, including the murder of Wits University academic Dr David Webster.

Senior Superintendent Casper Jonker, investigating officer in the trial and a member of the D'Oliveira special investigating team, told the court yesterday that a number of witnesses refused to make statements or give evidence against Barnard before he was arrested and safely behind bars. There were also witnesses who still "blankly" refused to make statements or to give evidence.

He said one of these witnesses was Calla Botha, once a close friend of Barnard Botha, an ex-policeman, was

implicated by several witnesses in the murder of Webster.

Those who testified during the trial submitted that Barnard had told them that Botha was driving the car on the day Webster was shot outside his Troyeville home.

Anton Ackermann SC, for the State, asked Jonker if he had approached Botha. Jonker replied that he had, but that Botha was not prepared to give evidence.

The investigating officer told the court that several of the witnesses, in particular the women in Barnard's life, had insisted on being placed under the state witness protection programme before they would give statements against Barnard.

Jonker also told the court that in the course of the two years that the case was investigated by the D'Oliveira team, they had received a wide range of information

According to him, the investigation started with the information Barnard's former lover of nine years, Brenda Milne, gave them. Milne told the court a week ago that she had kept notes for two years on Barnard's criminal activities.

Jonker said Barnard's other girlfriend, Amor Badenhorst, also gave the police information about Barnard that had played an important role in the investigation.

He said some of the charges against Barnard were formulated only after the team spoke to the witnesses.

Several of the witnesses could not be approached because they had died in the meantime, he said. Reaches Gordon, a Cape Flats gangster allegedly hired to help Barnard with the planned murder of Justice Minister Dullah Omar, died in 1992 when he was attacked by gangsters

Jonker also referred to Johannes du Plessis, the only witness in the Webster murder who died in 1994 of natural causes, and to Corrie and Johannes Goosen, who died in motorcycle accidents a year ago.

Eugene Riley, one of Barnard's alleged crime partners, was found dead in his house in Bryxton in 1994 with a bullet wound in his head. A murder docket was opened.

The girlfriend of Mark Franses, who was allegedly beaten to death with a baseball bat by Barnard and Riley, had also died under mysterious circumstances. Jonker said she was abducted by two men and her body was later found in Mandeor. Another state witness, Crunchy Johnson, died last month after he was attacked in his Pretoria house.

The State will close its case on Monday - Pretoria Correspondent



IN THE DOCK He may be behind bars, but many of his former associates still fear Ferdi Barnard

TRC will soon begin paying out small interim reparations

People identified by the Truth and Reconciliation Commission as victims of human rights violations would in the next few weeks begin receiving application forms for interim reparations, acting TRC chairman Dr Alex Boraine said yesterday

The interim reparations would be one-off payments to victims or their dependants who had suffered hardship and were in need, he said

The amount would normally be a maximum of R2 000, aimed at helping victims to get services such as medical care

"They are designed to provide limited assistance while the Government and Parliament are discussing their final decision on reparations, which is likely to be taken only after the TRC has handed in its final report on July 31 "

The payments could not be made until a finding had been made on a statement made to the TRC by a victim or survivor

The commission's human rights violations committee was busy corroborating each of the 20 000 statements it had received Boraine urged applicants to go to local TRC offices for forms - Sapa

(252) Star 4/4/98

Potential witnesses afraid to testify in Ferdi Barnard



Ferdi Barnard: witnesses are scared

OWN CORRESPONDENT

The Pretoria High Court has been told that several witnesses in the trial of ex-CCB operative Ferdi Barnard have declined to give evidence because of fear for their lives

Senior Superintendent Casper Jonker, investigating officer in the trial and a member of the d'Oliveira Special Investigating Team, yesterday told the court a number of witnesses refused to make statements or give evidence against Barnard before he was arrested and safely behind

bars. There were also witnesses who still refused to make statements or to give evidence, he said.

He said one of these witnesses was Calla Botha, once a close friend of Barnard. Mr Botha, an ex-policeman, was implicated by several witnesses in the murder of Dr David Webster.

Those who testified during the course of the trial submitted that Barnard told them Mr Botha was driving the car on the day Dr Webster was shot outside his Troyeville home. Anton Ackermann, SC, for the State asked Superintendent Jonker if he approached Mr Botha. He

(7/17)

answered "yes", but said he was not prepared to give evidence for the State. The investigating officer told the court that several of the witnesses, in particular the women in Barnard's life, insisted that they be placed under the State's witness protection programme before they would give statements against Barnard.

Superintendent Jonker also told the court that in the course of the two years that the case was investigated by the d'Oliveira team, they had received a wide range of information. According to him the investigation started with the information that

ARLT 4/14/98

Barnard's former lover of nine years, Brenda Milne, gave them. Ms Milne told the court a week ago that she had kept notes for two years about Barnard's criminal activities.

Superintendent Jonker said Barnard's other girlfriend, Amor Badenhorst, also gave them vital information about Barnard that had played an important role in the investigation. He said some of the charges against Barnard were only formulated after certain alleged crimes came to light when the team spoke to the witnesses. Several of the witnesses had in the

meantime died, he said. Peaches Gordon, a Cape Flats gangster allegedly hired to help Barnard with the attempted murder of Justice Minister Dullah Omar, died in 1992 when he was attacked by gangsters.

Superintendent Jonker also referred to Johannes du Plessis, the only eyewitness in the Webster murder, who died in 1994 of natural causes, and to Corrie and Johannes Goosen, who died in motorcycle accidents a year ago.

Eugene Riley, an alleged crime partner of Barnard, was found dead in 1994 with a bullet wound in his

head. The girlfriend of Mark Francis, who was allegedly beaten to death with a baseball bat by Barnard and Mr Riley, also died under mysterious circumstances.

Superintendent Jonker said she was abducted by two men and her body was found later.

Another State witness, Crunchy Johnson, died in March after he was attacked in his Pretoria house. Superintendent Jonker was the last witness to give evidence in the Barnard trial. The State will close its case on Monday, after lodging certain admissions with the court.

trial, court hears

Gay couple to take medical aid to court

APR 4/4/98

ADELE BAILETA

A Cape Town City Council employee plans to take the municipality's medical aid to court for discriminating against him because he and his lover are gay.

This week the Local Authorities Medical Aid Fund told Johan Fourie, 50, that an application to register his lover Theunis Rautenbach as his dependant had failed.

An angry Mr Fourie accused the fund of "blatant discrimination" and said he was prepared to do battle with the fund's managers in the Cape High Court and the Constitutional Court.

The National Coalition for Gay and Lesbian Equality has criticised the municipality for taking a "huge step backwards", especially in view of the Johannesburg City Council's decision to extend benefits to same-sex partners.

Mr Fourie's application to the fund followed the landmark Pretoria High Court judgment earlier this year that ruled in favour of lesbian police captain Jolande Langemaat, allowing her to register her partner Beverly-Ann Myburgh on her medical aid.

The police services medical aid, Polmed, has given notice of its intention to appeal against the court's ruling, which is legally binding only within the jurisdiction of the Gauteng division of the High Court.

In a letter to Mr Fourie, Melt Louw, the municipal pension fund's



OSPED ZILWA

Turned down: Johan Fourie and his lover of 18 years, Theunis Rautenbach

general manager, said Mr Fourie's application had been turned down in accordance with the Medical Schemes Act of 1967 and the Rules of the Fund.

However, he said the fund would consider accepting Mr Rautenbach as an "extraordinary member", which would mean increased premiums.

Mr Louw told Saturday Argus that he did not want to comment further as the matter was between the Mr Fourie and the fund's managers.

The Act requires that prospective dependants not be on any other registered medical aid and that they be legally married to the existing member of the fund.

Declan Brennan, executive director of the Representative Association of Medical Schemes, said that most member medical schemes demanded a marriage contract or proof of a common-law relationship. Because marriages between men were unlawful, that would preclude them from registering dependants.

But he added that medical aids could determine whether they recognised homosexual relationships. He said the Pretoria ruling was likely to make an impact on other medical aids.

Mr Fourie, who has lived with Mr Rautenbach for 18 years, said: "Because we are men, and cannot be

legally married, we can't get benefits that married couples get." Although Mr Rautenbach, 51, has a job in the clothing industry, he cannot afford his own medical aid.

In a complaint to the SA Human Rights Commission, the men said they were in a committed and exclusive relationship, had a joint will and were financially co-dependent.

Faranaaz Veriava, the Human Rights Commission's legal and education officer, was "disappointed" with the medical aid fund's decision.

"We would have liked them to take the initiative in developing a human-rights culture based on the principles of non-discrimination, by revising the definition of dependency."

Mazibuko Jara, of the National Coalition for Gay and Lesbian Equality, said the municipality's decision was a "gross violation" of the Constitution and the Labour Relations Act, which states that, when it came to benefits, no one should be discriminated against on the basis of marital status or sexual orientation.

Mr Jara said the fund's decision also went against the spirit and the letter of the Employment Equity Bill, which outlawed discrimination in the workplace.

He said the Polmed judgment had paved the way for same-sex partners to claim their rights. He confirmed that marriage between same-sex partners was illegal in terms of the common law, but that the matter was part of the South African Law Commission's review process.

Seven Inkatha trainees to tell TRC about mass killings

By PERCY MAKHARAMEZHA

S EVEN men trained by the IFP in the Caprivi Strip, Namibia, will face the TRC's amnesty committee from Tuesday to testify about their involvement in the killing of at least a hundred people in Kwazulu-Natal

Daluxolo Luthuli, Romeo Mbambo, Brian Mkhize, Israel Hlongwane, Bhekisisa Khumalo, David Dhlamini and Bheki Ndlovu will bring to light the atrocious activities of a hit squad that murdered people in Empangeni and Eshowe in northern Kwazulu-Natal and in Clermont and Mpumalanga township near

Hammarisdale

According to TRC spokesperson Mdu Lembede, the seven men said they had operated a hit squad in the early 1990s

"They have applied for amnesty for a variety of offences which they claim in written submissions were committed under orders from their political leaders," he said

Their amnesty hearing will be held at the Durban Christian Centre over three weeks, beginning on Tuesday, taking a short recess during the Easter weekend before ending on Friday, April 24

Most of the applicants, Lembede said, including Luthuli, who was the commander of the hit squad,

were part of a 200 strong group of IFP youths who were secretly given extensive military training by the SADF in the Caprivi Strip

Lembede said "All the applicants claim that when they operated as a hit squad, they were all registered policemen in the former Kwazulu Police Their amnesty applications are for 56 incidents that led to more than a hundred murders "

However, the amnesty committee will only hear 21 of the incidents

Lembede said Luthuli claimed that in the company of some of the applicants, a number of senior IFP leaders and former Kwazulu members of parliament, they visited Chief Ngcobo's homestead in

(252) EP 5/4/98

Matunze near Pietermaritzburg

because the chief and his subjects were showing signs of supporting the United Democratic Front (UDF)

The area was regarded as an IFP stronghold, said Lembede, adding that Luthuli said that in an attempt to reorganise the IFP in the chief's area, he had allegedly been instructed by a senior IFP leader to call a meeting of all the chiefs' subjects

A number of people who failed to attend the meeting were allegedly identified and assassinated

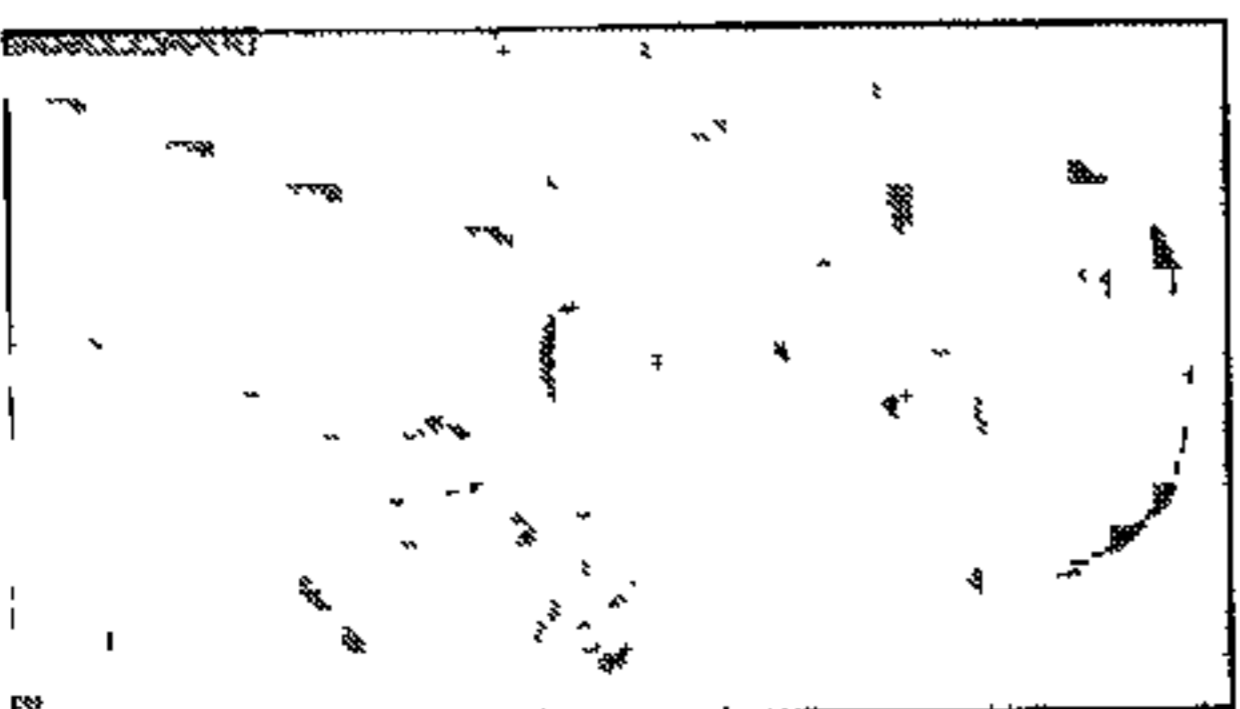
Lembede said the Caprivians had kept a house named "Summertime" under surveillance in Unit 1 South, a place where UDF members

apparently held their meetings

"On a particular day they saw a group of people gathered at the house and decided to attack Nine people were killed," said Lembede

According to Lembede Mkhize, Mbambo and Dlamini claimed that a high-ranking Zulu prince had instructed them to kill two people, a Mr Nxumalo, a male nurse in Eshowe, and Nathi Gumede, a well-known ANC activist

The prince allegedly told them Nxumalo had been instrumental in instigating ANC people to attack his home in Gezinsila, Eshowe The applicants claimed the prince provided them with a car and an automatic rifle



BLOOD ON HIS HANDS... Romeo Mbambo was trained in Caprivi to kill

TRC looks for political motive in Apla killings

By ANDILE NOGANTA (252)

11/5/98
THE first week of the Truth and Reconciliation Commission's amnesty hearings on a spate of Apla attacks on white civilian targets in East London in 1994 ended with the commission trying to establish a political motive for the acts

Dumisani Ncamazana and Zukile Mbambo are seeking amnesty for an attack on East London's High Gate Hotel, the shooting of a busload of white employees from the Da Gama factory, firing at a minibus near Nahoon Dam and the killing of Iranian citizens at a Bahai church service in Mdantsane

Both men have apologised to the families of their victims but maintain that as soldiers they had to carry out orders without questioning them. This was their standard response to a barrage of questions about the timing of the attacks and what they had hoped to achieve

Ncamzana and Mbambo admitted planning and carrying out the attacks barely a month before the country's first democratic elections. Asked whether he was interested in the developments at the time as they were going to affect him as a PAC member and as an individual, Ncamazana said his only interest was to liberate black people

Judge Wilson, chairing the amnesty committee, quoted a number of newspaper articles from January 17, 1994 about the suspension of the armed struggle by Apla. Ncamazana and Mbambo admitted they had heard about Apla's cessation of hostilities but said they could not take this seriously unless told by their military commanders

This week's hearing brought face-to-face for the first time the killers and the relatives of the Bahai victims. A visibly emotional Vera Razavi, wife of Riaz Razavi, pursued the same line of questioning: what could be gained politically by killing three foreigners in a church service?

"Doesn't it strike you as strange that a tiny church was hit right in the heart of a black residential area? Doesn't it strike you as strange that white people working with black people could be targeted for attack?" she asked.

Asked if he knew of any township in the country where orders were given to kill those whites working with Africans, Ncamazana said he only knew of the killing of black women and children by the previous regime

It was suggested that the purpose of the attack might have been to rob worshippers of their cars: a Volkswagen Jetta was taken from the church after the murder of the three Iranians. Ncamazana and Mbambo testified that the car was handed over to their commander, a Jimmy Jones

'Biko informant' is innocent, says TRC

(2572)
By CHIARA CARTER

CP 5/4/98

THE Truth and Reconciliation Commission believes the woman alleged to have betrayed black activist Steve Biko is more than likely the innocent victim of a smear campaign

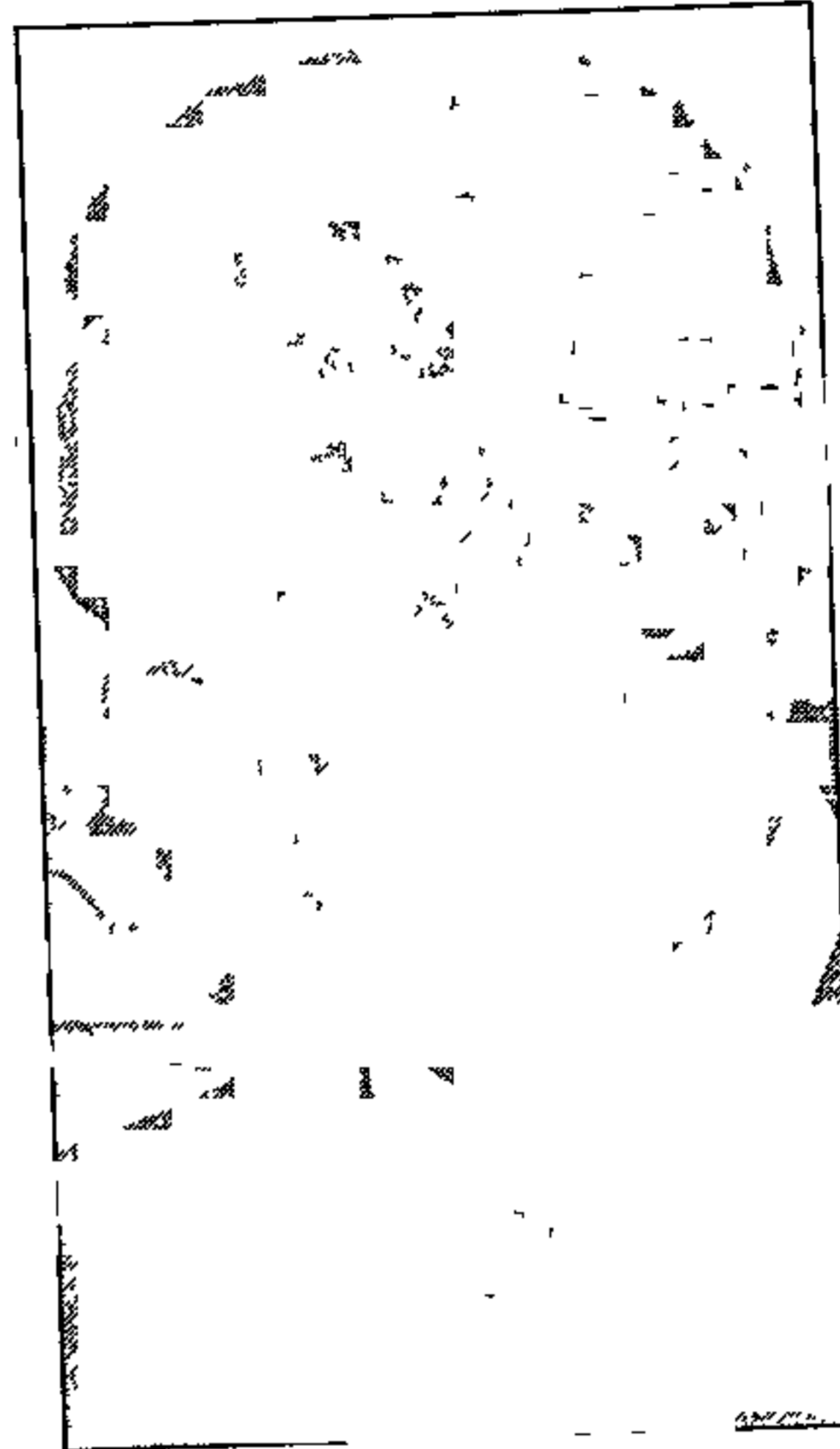
The woman, whose name is known to City Press, and who now lives in Gauteng, was accused of betraying Biko and his colleague, Peter Jones, to the security police who arrested the two activists at a roadblock in the Eastern Cape in the 1970s

The "exposure" of the woman apparently stems from the posting of a letter sent by a retired policeman, G A Fourie, who also reportedly provided the TRC with information on other alleged informers

The woman, whose name is known to City Press, was alleged to have been a long-standing informant and was said to have received \$10 000 from the police to study in the United States in the 1990s. It was alleged she had provided information about anti-apartheid leaders in the coloured community in the Western Cape

□ The TRC has denied receiving Fourie's letter, but it is understood they did in fact get information about the same matter as far back as last year

However, investigations have led TRC researchers to strongly doubt the truth of the claims and a TRC team is now trying to locate Fourie to inquire from him whether the woman – and another former activist in the Western Cape – have not in fact been singled out by false accusers



DIED IN DETENTION . . . Steve Biko, captured at security police roadblock

Equal rites go up in spiritual smoke

HAZEL FRIEDMAN

Bob Marley, the late prince of reggae and Rasta, would have been proud of Garreth Prince

The young Rastafarian candidate attorney from Cape Town is living the lyrics of Marley's *Stand Up For Your Rights* after his spiritual convictions landed him in court

The Cape High Court recently dismissed Mr Prince's efforts to overturn a Law Society decision not to register his articles entitling him to become an attorney because he admitted to smoking dagga for religious reasons

He had insisted he would continue indulging in his "spiritual smoke" Rastas regard dagga as a holy herb

But even though his dreams of becoming an attorney have been prematurely stubbed out, the dreadlocked disciple is determined to take his case to the Constitutional Court Whether it takes months or years, the outcome will affect thousands who smoke the weed, and who are the victims of "hypocritical, discriminatory laws", he said

"It will impact directly on the status granted to minority religions

and on the immoral and unworkable legislation governing the use and prohibition of cannabals," he said shortly after his application was denied

A Masters graduate who works at the University of Cape Town's Legal Aid Clinic office in Atlantis, Mr Prince became a Rastafarian in 1988

His use of dagga - an integral component of the Rasta religion - includes smoking it, burning it as incense, drinking and eating it In short he uses it in much the same way as another drug - once universally prohibited - is used in Judeo-Christian rites That drug is alcohol

The roots of spiritual smoking rites can be traced back at least 200 years Regarded as the tree of life, dagga is used by Rastas to cleanse their bodies and appease the wrath of Jah, the Rasta god

But in his spiritual quest, Mr Prince inadvertently gave new meaning to the phrase "religious conviction" He has been convicted twice for possessing cannabals

Being an equally ardent observer of the Ten Commandments, he openly disclosed his criminal

record to the Law Society when he registered his articles in order to complete his final year

But where there's smoke there's usually fire

The Law Society decided he was not a "fit and proper" person to be registered

"The irony is that if I'd told them it was an act of youthful insolence, never to be repeated, there wouldn't have been a problem," he said "I always thought 'fit and proper' referred to a person's honesty, reliability and integrity

"Their decision not only discriminates against the Rastafarian religion, but undermines our constitutional right to freedom of religion and freedom of choice," he said

Christoff Pauw, the president of the Law Society, said the society was duty-bound to act in a manner that advanced respect for and compliance with the law, which prohibits the use of cannabals and its possession for personal use

The irony, of course, is that green has become as much a part of the South African landscape as gold Personal use of ganja, dope, or dagga is as common as weeds sprouting through cracks in the pavement

There are even places of worship openly dedicated to its spiritual powers, such as the Rainbow Temple in the upmarket suburb of Oranjezicht, a popular hangout for doctors, lawyers, artists and the occasional politician

The temple is a shrine to dagga, with samples of the hemp plant in abundance Visitors can obtain it free of charge from the temple, and all are invited to smoke or eat it as part of "age-old spiritual rituals"

In short, the prevailing attitude towards dagga is similar to the United States' attitude towards homosexuality in the US Marines "Do it But don't disclose it"

Famous residents of the global "grass house" who have not only got stoned, but actually disclosed the fact, include US President Bill Clinton, who said he never inhaled when he tried it in his youth, Zambia's President Frederick Chiluba, who was expelled from school in Standard 7 for smoking marijuana, and actor Woody Harrison, the star of films such as *Natural Born Killers* and *The People vs Larry Flynt*, whose pro-dope stand has elevated him to the status of global ganja icon



Stubbed out: Garreth Prince, who may not practise as a lawyer, says he will challenge the Constitutional Court on his right to smoke dagga

(258) APR 4/4/98

De Kock's testimony deemed truthful

AD 6/4/98

(252)

David Greybe

CAPE TOWN — Former Vlakplaas murder squad commander Eugene de Kock, "terrible murderer" that he was, was telling the truth "like no one else" in presenting evidence before the truth and reconciliation commission, Constitutional Court Judge Albie Sachs said at the weekend.

Sachs, the survivor of an apartheid-era car-bombing in Maputo in the 1980s, was speaking at an international conference on psychoanalytical perspectives of change, in a session on "victims, perpetrators and healers at the truth commission"

Clinical psychologist Pumla Gobodo-Madikizela earlier presented a

paper on her interviews with De Kock, the most recent less than a week ago, in his cell at the CMax maximum security prison in Pretoria

"One of the first things that struck me about De Kock was how his face reminded me of a frightened child's face," Gobodo-Madikizela said

De Kock, who was chained to an immovable chair during the interviews, had told her "I wish I could do much more than say 'I am sorry' I wish I could say 'here are your husbands' But unfortunately I have to live with it" He was responding to a question on why he had asked for a private meeting with the widows of some of his victims at an amnesty hearing into the Motherwell bombing

De Kock helped supply the bomb used to kill the three black policemen and a civilian colleague in their car

Gobodo-Madikizela said "They were the words of a broken man It was clear to me that he was not only speaking about the Motherwell incident, but about all those killings he was involved in I thought to myself, what a waste of human spirit"

Gobodo-Madikizela said she had reached out and touched what De Kock told her a few days later was his "trigger hand"

De Kock is serving two life sentences, and a sentence of 212 years, for a series of murders and other crimes

Continued on Page 2

Sachs

Continued from Page 1

which he committed while he was the commander of Vlakplaas.

The three-day conference, organised by the SA Psychoanalysis Trust, attracted more than 400 delegates. The trust, formed in London in 1995 by a group with SA backgrounds, plans to establish a psychoanalytic clinic in SA offering subsidised treatment

Sachs said the fact that the truth commission "makes everybody in this country edgy — like a deep rawness — is proof that it is working".

Even a "10% apology" made voluntarily was worth something, as it helped to build a common citizenship

in SA, Sachs said.

Fellow Constitutional Court Judge Richard Goldstone deplored the fact that so few apologies had been meaningful — it was as if to apologise had become a "buzz thing"

Apologies needed to be accompanied by a "promise of change".

Speaking about his experience as chief prosecutor of the United Nations war crimes tribunal in the former Yugoslavia and Rwanda, Goldstone said SA would be a far less healthy society if it was not for the truth commission

He had learned if a country did not face up to past injustices — in the case of the former Yugoslavia these "cancers" had simmered for centuries, and in Rwanda 100 years — violence would eventually erupt. What victims needed was justice, Goldstone said

Caprivi killers to tell all at TRC hearings

By Sharon Chetty

A TRÖCITIES committed by men who were trained in secret in the Caprivi Strip will be made public for the first time when seven former KwaZulu-Natal policemen appear before the Truth and Reconciliation Commission's amnesty committee from today.

The seven - Daluxolo Luthuli, Romeo Mbambo, Brian Mkhize, Israel Hlongwane, Bhékisisa Khumalo, David Dhlamini and Berthwell Ndloyu - claim to have been members of an Inkatha Freedom Party (IFP) hit squad and that they were acting on orders from senior party leaders and KwaZulu police officials.

Luthuli is under the witness protection programme and Mbambo, Mkhize and Hlongwane are currently serving jail sentences.

Most of the applicants, including Luthuli (their leader) were among the 200 who were trained by the former South African Defence Force (SADF) and who were later involved in numerous killings and massacres, such as the one in KwaMakhutha, assassinations and the murders of several leaders in Clermont township.

Although they have applied for amnesty relating to 56 incidents in which more than 100 people were murdered, only 21 cases will be heard over the next three weeks.

However, for the first time details of several unsolved murders at Empangeni, Eshowe, Clermont and Mpumalanga will be made public.

These include

● An incident in which they fired randomly at a crowd in Clermont after someone had shouted the word "klova", (a derogatory description of an IFP supporter) at them. They do not know how many people died.

● The systematic assassination of people in the Mafunze area in Pietermaritzburg who were believed to be supporters of the United Democratic Front (UDF).

● An attack in Mpumalanga in which about six homes were torched and those fleeing were killed "to teach the UDF a lesson".

● The killing of nine people in a house called "Summertime", which was a well known UDF meeting place.

● An attack on a home in Mophela allegedly under orders of Mpumalanga IFP leader Mr Siphso Mlaba.

● Another Mophela resident, Lathi Sibisi, was attacked in his home and several other people killed.

● The killing of ANC leader Tshwe Mkhwanazi in Esikhawini under orders from a major in the KwaZulu police in Ulundi.

● The murder of ANC activist Nathi Gumede on instruction from a high-ranking Prince of the Zulu royal family.

Secretan 7/4/98

ANC to (252) defy TRC court bid

THE African National Congress has given notice that it will oppose the Truth and Reconciliation Commission's court application to overturn the amnesty granted to 37 party leaders

TRC chief legal officer Mr Hanif Vally said yesterday the ANC had filed a notice of opposition to the TRC's court application on Friday. The party had yet to provide reasons why it was opposing the TRC's court bid, he said.

The TRC asked the High Court to overturn the blanket amnesty granted by its amnesty committee to the 37 ANC leaders, including Deputy President Thabo Mbeki, on the grounds that their amnesty applications were irregular because they failed to fully disclose their misdemeanours. —Sapa—

7/10/98
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State closes its case against Barnard

Judge postpones former CCB agent's trial to April 20 to give defence time to prepare

(252)

SAPA

The State closed its case against former Civil Co-operation Bureau operative Ferdi Barnard yesterday after calling more than 10 witnesses who said Barnard had confessed to them that he murdered anti-apartheid activist Dr David Webster.

Several witnesses also gave evidence in the Pretoria High Court that he had confessed to murdering one of his business partners, Mark Francis

Mr Justice Johan Els yesterday postponed Barnard's trial to April 20 to give the defence time to prepare.

In February, Barnard pleaded not guilty to 34 charges of murder, attempted murder, fraud, intimidation, robbery, theft and illegal arms possession.

The State alleges that in 1989, Barnard, as an agent of the defence force's secretive Civil Co-operation Bureau, killed Webster with a shotgun in front of his home in Troyeville, Johannesburg.

The State also accused Barnard of attempting to murder Justice Minister Dulah Omar, who was at that time the chairman of the United Democratic Front in the Western Cape and headed the Association of Democratic Lawyers.

The State led evidence from a large number of witnesses who linked Barnard to fraudulent transactions involving diamonds and counterfeit money. At least two witnesses, including Pretoria attorney

Evadne de Jager, testified that he had ruined their lives. De Jager claimed that Barnard not only defrauded her and a client, but also had her falsely charged with fraud.

The court earlier heard that a large number of potential witnesses, including one of the only witnesses to Webster's murder, had died over the past few years, and that some witnesses were too scared to testify.

Barnard's former wife, Maryna Language, and two

former girlfriends, Anore Badenhorst and Brenda Milne, agreed to testify against him only when they were placed in the State's witness protection programme.

Milne set the ball rolling in 1996 when she handed to the attorney-general's office notes taken over a period of two years while she planned her escape from Barnard.

A special investigating team then started a lengthy and wide-ranging investigation into Barnard's alleged crimes.

Star 7/4/98

HRC zeroes in on race, disability and marital status

(252) **CHARLES PHAHLANE**
POLITICAL STAFF

ARC 7/9/98

Race, disability, marital status and health were the equality issues that dominated in cases referred to the Human Rights Commission last year.

In its annual report, the commission said more than 80% of the 2 200 complaints received between January and November last year could not be considered as they fell outside its jurisdiction.

Only 447 were accepted, 1 075 were referred and 678 were rejected.

The commission said many of the complaints were violations of more than one right. The example of a pupil who was barred from school because she was pregnant was simultaneously a violation of the right to education and to just administrative procedures and discrimination on the grounds of pregnancy or gender.

Prison issues continued to come forward, with complaints relating to assaults allegedly not investigated, seeking of transfers to prisons that made it convenient for visiting rights to be exercised, and parole.

The commission held public hearings, including a visit to the Vryburg High School to investigate alleged racism and transformation in schools. Commission members were assigned provinces to monitor.

The commission was planning to develop capacity to empower non-governmental and community-based organisations in KwaZulu Natal to become human rights trainers, the reports said.

Commission chairman Barney Pitso Moseneke said the country had a heightened sense of awareness of human rights and generally expressed it well. "We seek to direct that awareness into a national observance, which is the only guarantee of human rights for all," Dr Pitso Moseneke said.

The commission would hold a second conference of African national institutions for the promotion and protection of human rights in Durban in July.

Judges try to block Tshabalala's appointment to senior provincial

David Grebe

CAPE TOWN — Fourteen of Kwazulu-Natal's 19 sitting judges have petitioned the Judicial Service Commission not to appoint the only black candidate, Judge Vuka Tshabalala, as the province's deputy judge president.

They warned that Tshabalala would "not be able to command the respect of the other judges" in the Natal High Court. The 14 judges, plus two others, nominated former Afrikaner Broederbond executive member, Judge

Willem Booysen. The 14 are judges Thurron, Page, Wilson, Galgut, Squires, Hugo, Combrink, Levinsohn, McLaren, Combrink, Magid, Hurt, Van der Reyden and Niles-Dunier.

Tshabalala, a member of the Natal Bar for 29 years before he was appointed a judge of the Ciskei High Court, was nominated by the National Association of Democratic Lawyers. The commission, chaired by Chief Justice Ismail Mohamed, yesterday interviewed Tshabalala and Booysen — the only candidates — for the post which is

about to become vacant.

Kwazulu-Natal premier Ben Ngubane, who was present, said afterwards he was "horrified" that the judges had gone to such lengths to oppose Tshabalala's candidacy. He called on them to withdraw their petition and to pledge publicly to support Tshabalala if he was appointed.

With provincial Judge President Alan Howard due to retire in about three years, the next deputy judge president could lead the bench in Kwazulu-Natal — first as deputy and then as judge

president — for the next seven years.

The 14 judges said if Booysen was not chosen, there were other "far more senior and better qualified" judges on the Natal bench. They described Tshabalala as a "junior judge". The absence of the support of his colleagues would "have a detrimental effect on the proper functioning of the division".

Booyesen, who resigned from the Broederbond in 1993 after he was named as a member of the secret organisation's executive, told the commission he had always acted impartial-

ly on the bench. But in retrospect, he said he probably should not have joined the Broederbond, which he described as a cultural organisation. He said some of SA's "most eminent judges" were Broederbond members.

Tshabalala said it was "high time" people of colour were promoted to positions of authority if SA's courts were to gain the respect of the majority of people. Asked what special qualities he believed he would bring to the job, he said he was able "to get along with people, even those who do not like me".

post

ANC opposes truth body's case

MD 7/4/98

(252)

Pearl Sebolao

THE African National Congress (ANC) confirmed yesterday it would oppose a high court application by the truth commission to have amnesties granted to 37 party leaders, including Deputy President Thabo Mbeki, declared void.

The ANC's legal department head Mathews Phosa refused to give reasons yesterday for opposing the commission's application, saying it would all be "spelled out in our court papers, soon".

Phosa said the ANC would dispute the fact that the party leaders had filed blanket applications

for amnesty. "All of them had made individual applications and we would dispute that they received a blanket amnesty, as reported in the media."

The ANC would oppose also the application made by the National Party (NP), he said.

Responding to comments by the NP that by opposing the applications the ANC was opposing the principle of equality before the law, Phosa said the NP knew nothing about equality before the law because all they had was a long track record of "inequality before the law".

The truth commission asked

the high court to review the amnesties granted to senior ANC officials or, alternately, to direct the amnesty committee to reconsider them afresh earlier this year. The move followed criticism of the amnesty decisions and legal advice that they might not comply with the law governing the commission's work.

Truth commission spokesman Vuyani Green said he was unable to comment on the ANC's intention to oppose their bid to have the amnesties overturned as the notice they were given "was very sketchy and did not outline the basis for their (ANC) opposition".

Sadtu protesters' pay to be docked

Primarashni Pillay

THE KwaZulu-Natal education department is to dock the salaries of teachers belonging to the SA Democratic Teachers' Union (Sadtu) who participated in a protest march in February.

The march was to protest against the termination of services of temporary teachers whose contracts were to have ended at the end of February. However, the contracts were extended to the end of last month. Last night department superintendent-general Mike Jarvis said some of these teachers would be re-employed.

Meanwhile, letters have been issued to schools stating that the salaries of Sadtu members will be docked unless they provide information that they were away from school on the day of the march due to illness, a source said. Sadtu's provincial secretary Ndaba Gcwabaza said as members other unions had also taken part in the march, docking the salaries of Sadtu members would be unfair.

Courts 'have no jurisdiction over parliamentary decision'

Vuyo Mvoko

CAPE TOWN — Propositions were put yesterday as National Assembly speaker Frene Ginwala's counsel concluded his arguments for the day in the case against Pan Africanist Congress whip Patricia De Lille.

De Lille's case, which entered its second day at the Cape Town High Court yesterday, is set to have vast implications for the freedom of speech under parliamentary privilege as well as the separation of powers between the judiciary and the legislature.

She is challenging her 15-day suspension from parliament following an allegation she made in October last year that certain African National Congress (ANC) senior members spied for the apartheid government. She insists her comments were no abuse of parliamentary privilege and that her suspension without pay by an ANC-dominated ad hoc com-

mittee that looked into the matter went against her right to free speech. De Lille demands that the decision be set aside.

Advocate Jan Heunis, representing Ginwala, spent yesterday advancing an argument the courts had no jurisdiction over the parliamentary decision.

Heunis contended the decision was immune from a court challenge or any judicial review.

Disobeying the orders and rules of parliament, insults and breaches of privilege, interference with offices of the house in their discharge of their duties — were some of the things parliament did not allow to be violated.

International precedent, Heunis said, suggested the courts could have a say, but in matters that had an effect on people outside of Parliament.

In De Lille's case, Heunis said, the court might reach a point where it might be constrained in its intervention.

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Commission to hear KwaZulu policemen's amnesty plea

Farouk Chothia

DURBAN — THE truth commission would start hearing amnesty applications today from seven former KwaZulu policemen in connection with more than 100 murders, commission spokesman Mdu Lembede said yesterday.

Lembede said most of the murders took place in strife-torn KwaZulu-Natal, but two of the former policemen — Romeo Mhambho and Israel Hlongwane — had also applied for amnesty in connection with the April 1993 murder of civic leader Japie Theledi in Bushbuckridge in Northern Province.

Hlongwane said in an affidavit that he travelled from KwaZulu-Natal to Bushbuckridge to murder Theledi because he had allegedly been involved in arms smuggling for the African National Congress (ANC).

The other amnesty applicants are Daluxolo Lutshu, Bhakasa Khumalo, Zwell Dhlamini, Genza Mkhize and Bheki Ndlovu. They claimed to have been involved in 56 incidents, which caused more than 100 deaths.

It was understood that the seven were to include high-ranking Inkatha Freedom Party (IFP) members, including deputy secretary-general Zakhwele Khumalo, in violence.

Lembede said the 100 killings took place after about 200 IFP members were trained by the then SA Defence Force (SADF) in the Caprivi strip in 1986.

Lutshu would feature prominently at the three-week hearings, as he had been involved in the training and had commanded units which carried out murders, Lembede said.

Among the deaths for which Lutshu was applying for amnesty was the March 1988 murder of ANC-aligned chief Mameza Mamba in the KwaZulu-Natal midlands, and the murder of businessman Zazi Khuzwayo who opposed plans to incorporate Pinetown's Clemont township into the KwaZulu homelands.

Bheksasa Khumalo was applying for amnesty in connection with the 1987 KwaMakhutha massacre on the KwaZulu-Natal south coast, though he has not claimed responsibility for pulling the trigger.

Khumalo claimed that he accompanied the killers to KwaMakhutha, but had remained in the vehicle when they launched the attack which led to more than 10 people being killed.

Lembede said about half the 56 incidents would be dealt with at the hearing starting today, while the rest would be dealt with later.

AN 7/4/98 (253)

Parties skirmish over court

battle on ANC amnesties

Wat action is delaying tactic, says DP

JOHN YELD
ON THE TRUTH COMMISSION

Political manoeuvring around the controversial granting of amnesty to 37 prominent African National Congress members has intensified sharply, after the ANC's decision to oppose the High Court application by the National Party for the amnesties to be declared void.

The Truth Commission has also applied to the High Court to overturn the decision by its autonomous amnesty committee and for the 37 amnesty applications to be re-heard.

Now, the Democratic Party has accused the NP of causing a delay in the process by insisting on carrying on with its application.

The NP's application would have

been heard tomorrow if unopposed, but because of the ANC's decision, the matter has now been set down for hearing on April 24 - the same day as the Truth Commission's application.

ANC legal head and Mpumalanga Premier Mathews Phosa said this week the ANC had the legal right to oppose the court applications, Sapa reports.

"The ANC did not grant itself amnesty and we did not apply for a blanket amnesty," he said.

Jacko Mamee, the NP's spokesman on the Truth Commission, said the ANC's decision to oppose their application "in effect means they are seeking legal endorsement for the decision of the blanket amnesty which was unilaterally granted to them".

"It appears as if the ANC, through this action, wishes to oppose the

principle of equality before the law."

The DP promptly joined the fray, accusing the NP of causing a delay and deterioration of the amnesty review process.

"The real issue in the ANC amnesty case looks set to disappear beneath party political positioning, and the true priority - getting the amnesties set aside speedily so that they can be heard properly - is likely to be delayed by protracted legal proceedings," said Dene Smuts, the DP's spokeswoman on the commission.

Ms Smuts said it was clear the ANC had decided to oppose the NP's High Court application to deny the NP the propaganda opportunity of an early court date.

"The NP's stubborn insistence on staying in the game has triggered the

ANC decision to oppose, and is the root cause of the deterioration of the review process," Ms Smuts said.

"Like the DP, the NP has said from the start that it would prefer the Truth Commission to take the amnesty decision to court. Yet it has intervened in the process on a string of spurious grounds."

These included the NP's claim that it had to continue with its application because the Truth Commission's application was deficient, Ms Smuts said.

"On the contrary, it is very competent, and incorporates the concerns and objections the DP discussed with the Truth Commission."

The amnesties granted to the ANC struck at the heart of the integrity of the already problematic truth process, Ms Smuts argued.

(252) ART 8/4/98

Buthelezi 'knew of hit-squad killings'

DURBAN: The IFP decided to form an armed wing in the face of aggression from the UDF, according to a former member of one of the organisation's hit-squads. **SIMON ZWANE** and **SAPA** report.

SENIOR members of the Inkatha Freedom Party (IFP), including now-Home Affairs Minister Mangosuthu Buthelezi, were fully briefed on and approved of the actions of the party's hit-squads

And members of the former South African Defence Force (SADF), military intelligence and police were implicated in fomenting violence and creating no-go areas in KwaZulu-Natal, the Truth and Reconciliation Commission heard yesterday

Testifying in his amnesty application here, a former commander of the IFP-aligned hit-squads, Daluxolo Luthuli, said Buthelezi had known about their murderous activities

Describing a background of conflict between the IFP and the African National Congress-backed United Democratic Front (UDF), Luthuli said he was approached in 1986 by Mr M Z Khumalo (IFP secretary-general), then a personal assistant to Buthelezi, and told that Inkatha needed to form an armed wing in order to defend itself against the UDF

Khumalo proposed that Luthuli become the political commissar of the armed wing. Luthuli said Khumalo told him that the plan had the approval of Buthelezi

He said arrangements were made and he and about 200 Inkatha recruits left for Caprivi from Louis Botha airport in Durban in April that year

"I was told by Khumalo on countless occasions when he gave me orders that *umntwane* (the prince) approved," said Luthuli

He said he used to inform commanders of MI and the SAP riot unit of pending IFP attacks in Mpumalanga

townships so that "they would see to it that police and troops were withdrawn"

Luthuli and six other former IFP members, also trained in Caprivi, have applied for amnesty in connection with 52 incidents involving about 200 murders in KwaZulu-Natal

They are Romeo Mbambo, Gcina Mkhize, Zweli Dlamini, Bethuel Ndlovu, Israel Hlongwane and Bhekisisa Khumalo

In his application, Luthuli detailed how a Major Terblanche of the riot unit had supplied him with ammunition

"I used to arrange to meet him in Mpumalanga and he would hand me large quantities of 9mm, 12-bore shotgun, 7 65mm and R1 ammunition"

A Major Pollberry of MI had told him that it was military intelligence strategy to help on both sides of the conflict

They created strongholds for both the UDF and the IFP to help them monitor the situation

Pollberry apparently told Luthuli that MI had encouraged and participated in killing members of both the UDF and IFP who were found living in their opponents' strongholds

This information, volunteered when the IFP was planning an attack on a UDF stronghold in Mpumalanga, marked a turning point in the conflict in the area, as the local IFP leaders then decided to seek peace

(252)

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Luthuli, who is the grandson of former ANC president Chief Albert Luthuli, also implicated senior IFP leaders, including provincial Welfare MEC Prince Gideon Zulu, former Esikhawini mayor Mr B B Biyela, Mr Themba Khoza, former Esikhawini district commissioner Brigadier Como Mzimela and other senior police officers in the former KwaZulu police, in the murder of former UDF members

He said hit-squad members falling under Khoza were sent to Esikhawini in the late 1980s to assist the local hit-men in eliminating UDF members

I was told on countless occasions 'umntwane' approved

The killing, according to Luthuli, was ordered by Zulu, who had been angered by an attack on IFP members during a rally he addressed in the township

Luthuli listed about 10 incidents in which he was involved, but said he always remained in the

background and never took part in the killing

He said he had shifted his allegiance from the ANC in 1980 after a 10-year prison sentence on Robben Island with some of the "fathers of the struggle", including President Nelson Mandela and Walter Sisulu

Luthuli claimed that the ANC stal-

warts had instructed him to join Inkatha, as it was then known, because it was working hand-in-hand with the ANC

But relations between the two organisations had soured in the early 1980s and he became increasingly disillusioned with the ANC's support in KwaZulu-Natal for UDF comrades, who were attacking traditional Zulu leaders.

He said these methods included violent beatings and necklace murder against so-called collaborators, a word also used to describe Inkatha supporters

He said he was taken to meet Buthelezi in 1979, but became involved in the IFP only in 1985

Luthuli also claims to have met former Vlakplaas commander Eugene C Kock during the period when Inkatha self-protection units were being trained by the SA Defence Force as well as Military Intelligence officers

He claims that MI plotted to have him killed because they alleged he was once again working with the ANC and its armed wing — uMkhonto weSizwe (MK)

He said he maintained contact with the ANC at this time and met Chief Hanu, who was based in Lesotho, in 1981. He lost contact after an SADF raid in 1982 forced Hanu and others to leave Southern Africa

The hearing continues today

Acting judge denies charge of racism from lawyers

RONALD MORRIS

A DURBAN advocate, now an acting judge, yesterday denied before the Judicial Services Commission that he was a racist after being accused by a lawyers' body of being "not white, not black, but anti-black"

Mr R Vahed, SC, was being interviewed — for the second time since last year — for one of three vacant judgeships at the Natal provincial division

Bitter opposition to his nomination was voiced by the National Association of Democratic Lawyers (Nadel), the Black Lawyers' Association (BLA) and the Cato Manor Action Group

Asked by Mr Chief Justice Ismail Mahomed why he was not a member of either Nadel or the BLA, Vahed said there was "certain tension" with those two bodies as he was at a loss to explain why

Vahed told the JSC he had been a member of Lawyers for Human Rights

Constitutional Court president Mr Justice Arthur Chaskalson said the objection to his appointment was that he had not identified himself with the needs of the oppressed and had not objected to apartheid

Told by Mr George Bizos, SC, that he appeared to have led a private existence and had not committed himself to his community's problems, Vahed replied

"I'm a private person, yes. It is also correct that I did not join organisations. That I did not help my community is not correct"

Told by Bizos that he did not suggest he should have "struggle credentials", Vahed said it was hard to start a practice and he had had family when he joined the Bar

The successful applicants will be informed this morning

RONALD MORRIS
JUSTICE WRITER

(2572)

ET 8/4/98

PROFESSOR Dennis Davis, academic and TV host of *Future Imperfect*, succeeded yesterday in his bid to become a judge of the Cape High Court after being interviewed by the Judicial Services Commission

Mr Acting Justice Benny Griesel also succeeded with his application

The two will fill vacancies left by the retirement of Mr Justice Les Rose-Innes and Mr Justice Wilfred Cooper

Davis, 46, a Cambridge University graduate, admitted during questioning that he had joined the ANC in 1990 and that before that he had been a member of the United Democratic Front

He has had a distinguished academic career and is professor of commercial law at the University of Cape Town

He is also national director of the Society for the Abolition of the Death

Penalty and a member of Lawyers for Human Rights and the National Association of Democratic Lawyers

While on sabbatical abroad, he is writing a book on constitutional theory

Referring to an occasion last year when he served as an acting judge for the first time, Davis said he had found it exhilarating and exciting

Asked by Chief Justice Ismail Mahomed if being a judge was the kind of job he would like to do for the rest of his life, Davis said he had enjoyed it and felt he could make a contribution to the law

He also felt his background as an academic was an advantage

Told by Judge Mahomed that, as an activist who lectured with gusto and



TV HOST: Dennis Davis appointed to Cape bench

energy, he would probably miss appearing on television, Davis said he would, but that he had given much thought to the matter

In reply to questions by Constitutional Court president Mr Justice Arthur Chaskalson, Davis said ongoing judicial education was vital and that greater use

should be made of law facilities at universities

He also said he would like to see more use made of computers

As an acting judge he had been "horrified" to find there were no computers on which judges could access the Internet

Asked what his attitude would be if fellow judges were to say that the abolition of the death penalty had been a terrible mistake and that it had encouraged more crime, Davis said such an attitude would fuel a populist sentiment that would create difficulties

He believed judges should be able to handle that and hoped that over a period the "sheer weight of rational thought" would hold sway

Asked what he was going to do



NEW JUDGE: Benny Griesel, legal aid chief

about his membership of the ANC, Davis said he would formally resign because judges are not permitted to belong to political organisations

Asked what he thought about the refusal by judges to appear before the Truth Commission, Davis said a representative core of judges should have come before the TRC, but that it would have been most unfortunate if all had been called

Griesel told the commission that the re-introduction of the death penalty would be premature and would not be the solution to the increase in crime

Griesel, who is completing his third term as an acting judge, was nominated by the Cape Bar Council

He said he was involved in legal reform, including the streamlining of pre-trial procedure

He is also chairman of the legal aid sub-committee of the Cape Bar

judicial

appointment

Judges in race for places will battle

ONLY 18 months after the furor caused by President Nelson Mandela's backing of Ismail Mahomed for the post of chief justice, a similar dispute has erupted over the deputy judge presidency in KwaZulu-Natal.

This time, though, the issues are even less clearcut.

In this case, 14 members of the KwaZulu-Natal bench have petitioned the Judicial Service Commission (JSC) — the body that recommends to the president the appointment of judges — to reject the nomination of Judge Yuka Tshabalala to the post in favour of their nominee, Judge Willem Booysen. Their stated grounds relate to his junior status — he was appointed only a few years ago to the Ciskei High Court bench — and his inexperience.

Five Appeal Court judges, it will be recalled, threatened to resign if Mahomed was appointed over the head of their nominee — Judge Henne van Heerden. Van Heerden was, like Booysen, next in line for the job in terms of traditional conventions of seniority. The threat did not materialise after Mahomed's appointment.

The difference between the Mahomed case and this one is that, in the former, there was no disputing that Mahomed had the credentials, experience (he had served as a judge elsewhere in southern Africa) and intellect for the job.

However, while many of even the most enlightened members of the legal fraternity may concur with the fourteen's assessment of Tshabalala, the KwaZulu-Natal judges who signed the petition have not gone about the issue with much political savvy.

While the wry tower approach may be appropriate for the judiciary in a normal society — and is always so when dealing with purely legal issues — the same cannot apply to judicial personnel matters in a society still undergoing a revolution.

Given the secretive way in which the legal fraternity tends to operate, it is not easy to piece together how the present situation arose. It is widely believed that Booysen's nomination, and resistance to Tshabalala's, was initiated

Too many of SA's judges have not yet grasped what their arrival in a post-apartheid era requires of them, writes Cape editor Alan Fine

ed by KwaZulu-Natal Judge President Allan Howard. In their petition, the 14 deny a Sunday Times report that they nominated Booysen "under pressure" from Howard, but not that the judge President supported their stance.

Tshabalala's nomination was formally submitted by the now defunct National Association of Democratic Lawyers (Nadel) — which last month merged with the Association of Law Societies to form a united Law Society of SA. However, while this could not be confirmed, Tshabalala's nomination is said to have been initiated by Mahomed and Justice Minister Dullah Omar, no doubt trying to address the problem of the demographics of the judiciary.

One legal source says Tshabalala is very uncomfortable about opposing Booysen — and only stood because of strong pressure from above — because during his almost 30 years as an advocate he has found Booysen to be among the most helpful and collegial judges he has dealt with. He said as much during the JSC interview on Monday. This is notwithstanding Booysen's past membership of the Broederbond and the fact that the Natal bench has had many more liberal judges than he in its ranks over the years.

A range of (non-apartheid era) legal sources with no apparent axe to grind question Tshabalala's suitability for the post. Tshabalala appears to be a very well-liked member of the Bar — many compare him in this respect to George Bizos, ironically a member of the JSC having to make the decision.

However, it is pointed out that he left private practice a few years ago without having made a significant impression. And his brief tenure as a judge in the Ciskei is devalued by the state of the judiciary in the Eastern Cape, divided as it is between Fort Elizabeth, Grahamstown, Bisho and Umta-

ta. Like the public service, the homeland legacy has left the province's judiciary somewhat overstuffed, meaning a very light workload, especially for the less experienced judges.

If all this is so, Nadel, Mahomed and Omar could have tried to find a more qualified candidate if they were intent on securing a black deputy judge president. The bench is not quite the same as the

field of brain surgery, but there is a similar concern about experience and expertise.

Judges occupying the top two positions have critical administrative work to do. This includes allocating cases in a way that ensures optimum levels of operation.

That requires a high level of experience and intricate knowledge of wide areas of the law. This is especially so in KwaZulu-Natal,

where the High Court operates in both Durban and Maitzburg and the deputy often carries out the duties of the principal. It also means that some of the best legal brains who lack administrative abilities would themselves not make good judges president.

Those who nominated Booysen, though, could also have been more thoughtful. While SA's judiciary has always included large num-

bers of highly enlightened members, they tended to be outnumbered by those willing to interpret the law to suit the political imperatives of the government of the day. The new government was, correctly, careful not to carry out a wholesale purge of those closely identified with the old order. It is not necessary personally to attach that label to Booysen.

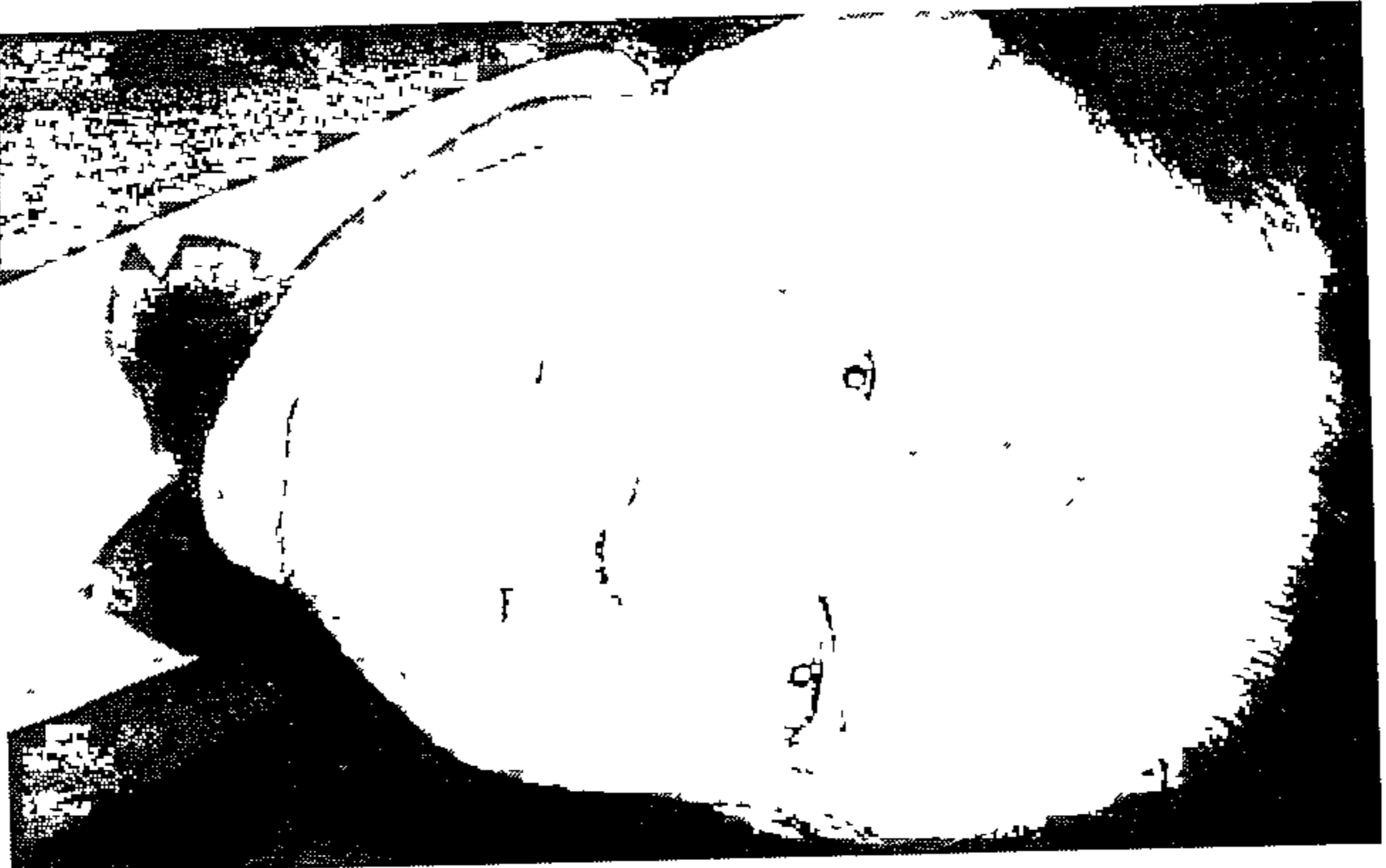
But past membership of the Broederbond can hardly be considered a badge of honour. So, if existing members of the bench are to display the political savvy the new SA calls for, they would themselves seek out appropriate candidates for senior — and junior — vacancies among themselves.

If a suitable black candidate cannot be found, they would do well at least to nominate for top positions those among them with a requisite reputation in the field of human rights law and the like. Such people still sit on the KwaZulu-Natal bench.

Booyesen's nominators could perhaps take a leaf from Judge Edwin Cameron's book. When facing the JSC for a position on the Constitutional Court last year, and asked whether he did not think it important that a black candidate of perhaps equal stature should receive priority, he unhesitatingly answered "yes". He did not get the position, but he will be a highly credible candidate in the future.

It is true that there is a dearth of black candidates with the right credentials available for nomination. Most of the best legal brains are content to remain in private practice where they earn double or treble what a judge does. Or, like businessman and Telkom chairman Dikgang Mosenke — who had what it takes to rise to the top in the court system — they have left the law altogether. This is a dilemma Omar, Mahomed and others need to address.

For the rest of the judiciary, the challenge is to eliminate the public image of an exclusive "old boys' club" and start thinking strategically about how to change the face of the institution while maintaining — or, given our history, raising — its standards. Meanwhile, the JSC faces an invidious choice



HOWARD



MAHOMED

Commission fails to select deputy

(252) BD 8/4/98
David Greybe

CAPE TOWN — The Judicial Service Commission failed yesterday to choose a new deputy judge president for KwaZulu-Natal after an unprecedented deadlock in voting.

A member said afterwards a straw vote had resulted in seven members voting for the only black candidate, Judge Vuka Tshabalala and another seven — “all white” — voting for former Afrikaner Broederbond executive member Judge Willem Booysen.

Another member attributed the split vote to the issue of “competence versus affirmative action” in the highest echelons of SA’s judiciary.

Fourteen of KwaZulu-Natal’s 19 sitting judges earlier petitioned the commission not to appoint the “junior judge” Tshabalala. They warned he would not be able to command the respect of the other judges in the Natal High Court. Some commission members, including the chairman, Chief

Justice Ismail Mohamed and Constitutional Court president Arthur Chaskalson, abstained from the voting, while others were absent.

At least 13 of the commission’s 25 members must vote in favour of a candidate for an appointment to be confirmed. According to the constitution, judges are appointed by the president “on the advice of the commission”.

There is no precedent where the commission has failed to make a firm recommendation.

Another commission member said it was feared that yesterday’s impasse would result in delays in appointments aimed at transforming the judiciary.

“If the various parties cannot convince each other on issues, we could face more deadlocks in the commission,” he said.

The next commission meeting is scheduled for October. Incumbent deputy judge president in KwaZulu-

Continued on Page 2

Judges

Continued from Page 1

(252)
Natal, John Broomie, is due to retire in the middle of the year.

A spokesman said last night the commission would issue a statement today on the two days of interviews for the post of deputy judge president and the appointment of judges to fill vacancies in the high courts of the Cape, Na-

tal, Transkei and Transvaal.

It is understood the commission did succeed in making decisions on a number of other appointments.

Dennis Davis and Acting Judge Bennie Griesel are expected to be appointed to the Cape High Court. Adv N B Locke is expected to be appointed to the Transkei High Court and Acting Judge D S S Kondile and Adv A N Jappie to the Natal High Court.

Analysis: Page 11

BD 8/4/98

Hit-squad leader implicates IFP in murder of ANC leaders

BY SIMON ZWANE

(252)
The commander of seven Inkatha Freedom Party hit squads revealed at an amnesty hearing yesterday that the IFP was involved in the murder of two prominent ANC leaders in the KwaZulu Natal midlands.

Daluxolo Luthuli, who is applying for amnesty together with six other Caprivi-trained

Star 9/4/98
assassins -- for other incidents, also implicated secretary for the provincial legislature Robert Mzimela and the province's Public Works MEC the Rev Celani Mthethwa in gun-running

He said Mzimela told him he was selling AK-47s for R1 000 each, and Mthethwa had sent him to deliver weapons to several people including Chief

Calalakubo Khawula.

Luthuli admitted under cross-examination in Durban that hit-squad members took part in the murder of Chief Mhlabunzima Maphumulo and former ANC regional secretary Reggie Hadebe. He said IFP strongmen Phillip Powell and David Ntombela knew about Hadebe's planned assassination.

The killings were committed

by hit-squad members Phumlani Mshengu and Bongani Sithole, who had been incorporated in the former KwaZulu police's bureau of state investigation, an equivalent of the security branch of the former SA Police.

Luthuli is applying for amnesty in connection with 52 other incidents involving about 200 murders.

'IFP OFFICIALS GAVE ORDERS'

Buthelezi 'responsible for hit-squad mayhem'

CT 9/4/98

(252)

DURBAN: The commander of the military units trained in Caprivi said yesterday he was told to kill people suspected of being ANC to show that the IFP also existed in Clermont.

FORMER Inkatha military commander Daluxolo Luthuli yesterday told the Truth and Reconciliation Commission that he believes Inkatha Freedom Party president Chief Mangosuthu Buthelezi was ultimately responsible for the mayhem caused by hit-squad attacks in KwaZulu-Natal in the late 1980s and early 1990s.

Luthuli, 50, is applying for amnesty for murders by a Caprivi-trained squad he commanded.

He told the TRC's amnesty committee his orders came from high-ranking IFP officials who wanted to "eradicate the United Democratic Front" from the province.

Luthuli said his direct orders came from Mr M Z Khumalo, who was a personal assistant to Buthelezi. He also implicated Prince Gideon Zulu, Mr David Ntombela and Mr Samuel Jamile, who held high positions in the IFP at the time. Ntombela and Zulu are now members of the KwaZulu-Natal provincial government.

Luthuli named Buthelezi as the person responsible for violence that resulted from the attacks because, he said, they had received his approval.

Mr Jeff Hewitt, SC, for Khumalo, other IFP officials and KwaZulu police officers, put it to Luthuli that he had not been acting on

instructions when he carried these attacks. Hewitt also said Luthuli had at that stage distanced himself from the IFP and was carrying out operations on his own.

Luthuli replied that although he became annoyed at the involvement of the SA Defence Force in IFP operations, he had continued to receive orders from Khumalo and other IFP officials.

Luthuli, who was trained by the IFP in Caprivi in the mid '80s, said that part of the policy during the training had been "not to kill innocent people", but during the operations in KwaZulu Natal senior IFP leaders had instructed the trainees to wipe out every house in an area suspected of being dominated by the ANC.

The commission announced during the hearing that the senior IFP leaders implicated by Luthuli in killing ANC and UDF members, had denied any association with Luthuli or the murders he committed.

Luthuli recounted that Prince Gideon Zulu had ordered the killing of a member of the Zulu royal house.

"Mr Khumalo ordered the

killing of Zazi Khuzwayo in Clermont and many other killings in the province," he said.

"He told us to kill people suspected of being ANC in order to indicate to everyone that the IFP also existed in Clermont."

"On one occasion one person who was in a group of 20 to 50 people in the township insulted us when we drove past by calling us "Oklova" (a derogatory word to IFP supporters).

"I then ordered my two men in the car to kill the people while I drove slowly behind them. I did not know who was killed, but a number of people were killed. All I knew was that the area was dominated by the ANC," he explained,

apologising to both the dead victims and their families.

Luthuli told the commission he had often received gifts from Buthelezi and Prince Gideon Zulu for "a job well done".

Luthuli told the hearing he knew the killer of ANC KwaZulu-

Natal Midlands leader Reggie Hadebe, who was shot in an ambush near Richmond in October 1992. He named the person as Bongani Sithole, who he said was a member of the Caprivi-trained hit-squads. The murder of Hadebe is still unsolved.

The hearing continues here today — Own Correspondent, Sapa

Bongani Sithole named as killer of Reggie Hadebe, ANC leader in KwaZulu-Natal Midlands

Killers plan to apply to commission

THREE Black Consciousness members will appear before the truth commission on April 20 to 21 to apply for amnesty for killing four Soweto Students' Congress members and a white security guard in 1986.

The hearing for Joseph Hlase, Anastasios Mphoreng and Ernest Thandakubona will be held at the Gauteng legislature's auditorium in Johannesburg.

The commission said the hearing would be divided into two parts. The first would be on the killing of the white security guard in July 1986.

The committee said the applicants

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claimed they carried out the killing on the orders of then Soweto Azanian People's Organisation leaders Thami Mcerwa and Sam Seema. Mcerwa has since died.

The second part of the hearing would be on the abduction and killing of the students' congress members. Edwin Vuyani Nkomo, Mbulelo Mabena, Msilana Ronnel Sishange and Oscar Amos Mlangeni were abducted, tortured and killed in Chiawelo. Two students, Simon Morris and Sekano Avonly Kgase, survived the attack and Kgase alerted the police, resulting in the applicants' arrests. Sapa

BD 9/4/98

Amnesty granted to ANC, AWB men

CAPE TOWN — Amnesty had been granted to two applicants who were convicted for illegal possession of firearms, the truth and reconciliation commission announced yesterday

One, Sydney Ndaba, was a member of the

POD 914198
African National Congress, and of an ANC-affiliated civic organisation and trade union

The other, Gerrit Philippus Anderson, was a member of the Afrikaner Weerstandsbeweging, whose cell in Natal had co-operated with the

(252)
Inkatha Freedom Party in procuring weapons

Both the applications were considered in chambers as they did not relate to gross human rights violations as defined by the legislation on amnesty, the commission said — Sapa

Lawyers' group backs black judge's

David Greybe

CAPE TOWN — The National Association of Democratic Lawyers (Nadel) vowed yesterday not to give up its fight for the appointment of Judge Vuka Tshabalala as the first black deputy judge president for KwaZulu-Natal.

Nadel would use the "time out" called by the judicial services commission after its failure to choose between Tshabalala and former Afrikaner Broederbond executive member Judge Willem Booysen to campaign for Tshabalala, said Nadel's publicity secretary, Krish Govender.

He said Nadel would be "shocked" if Tshabalala failed to win the nomination at the next commission meeting, scheduled for October.

Commission chairman Judge Ismail Mohamed said yesterday that the commission had "resolved to make no recommendation to this position at this stage".

The commission arrived at a deadlock over the issue earlier in the week after 14 of KwaZulu-Natal's 19 sitting judges petitioned the commission not to appoint the "junior judge" Tshabalala who was nominated by Nadel.

The judges warned that he would not be able to command the respect of the other judges in the Natal High Court.

"Almost all of these 14 white judges served the apartheid order, and in effect supported the denial of human rights to the majority," Govender said yesterday.

"They are displaying a certain shortsightedness in the Louis Luyt mould of wanting to make every issue the last stand in the name of the old order."

Govender described Tshabalala as the "father" of all black lawyers in SA in terms of his seniority and humanity.

Unfortunately, he did not have the opportunities "that went with white privilege to shine as an extra special legal personality, nor was he given the opportunity to be involved in a wide cross section of legal work".

Govender called on the 14 judges to think again.

The lawyers' group accused the judges of looking only at narrow interests and not those of the 8-million people in KwaZulu-Natal or the majority of South Africans who needed to have confidence in and respect for the judiciary.

Yesterday the commission announced the appointments of FHD van Oosten to the Transvaal High Court, Dennis Davis and acting Judge Bennie Griesel to the Cape High Court, NB Locke to the Transkei High Court and acting Judge DSS Kondile and advocate AN Jappie to the Natal High Court.

Govender said yesterday that the commission had "resolved to make no recommendation to this position at this stage".

The commission arrived at a deadlock over the issue earlier in the week after 14 of KwaZulu-Natal's 19 sitting judges petitioned the commission not to appoint the "junior judge" Tshabalala who was nominated by Nadel.

appointment (252) PD 9/4/98

Holomisa calls on Heath unit to investigate sale of Aventura

Reneé Grawitzky

THE Heath special investigating unit into state corruption has been asked by United Democratic Movement leader Bantu Holomisa to investigate a potential conflict of interest around the sale of state resorts company Aventura.

Holomisa questioned the involvement of deputy president Thabo Mbeki in attempting to settle land claims at Aventura.

He believed Mbeki's involvement had been governed by the fact that his wife Zanele, legal adviser Mojanku Gumbi and other government officials and "personal friends" were involved in the Phalafala Leisure Consortium — one of five bidders for the 100% sale of the resorts company.

Unit head Judge Willem Heath confirmed that a letter had been received from Holomisa and said the matter, as was the normal course of events, would be referred to President Nelson Mandela who would decide whether the unit should investigate the matter.

Holomisa denied claims that this issue was being raised as an "election-eering tactic".

Holomisa said the matter had been referred to the unit, which investigated corruption and maladministration of public funds and state assets, because

of government's arrogance in dealing with his request to halt the sale of Aventura pending an investigation.

He has also questioned the fact that Mbeki was chairing the interministerial cabinet committee on privatisation, the relationship between Kersaf and the African National Congress and Kersaf's financial backing of Zanele Mbeki. Holomisa said the committee should recuse itself from handling this transaction.

Robyn Chalmers reports that a public announcement on Aventura's preferred bidder has been postponed until early May.

Public enterprises ministry spokesman Wandile Zote said yesterday that binding bids were discussed with the various bidders yesterday, and a decision would be made soon.

However, a decision on the winner would have to be ratified by the interministerial cabinet committee, whose next meeting was on April 30. Talks on the winning bidder would then be held with involved communities.

The sale of Aventura has been hampered by community claims on the resort company's land.

As a result, government wanted to ensure all stakeholders were brought into the process before the winner was announced, Zote said.

BD 9/4/98

Hit squad commander breaks down

DURBAN — A former Inkatha military commander broke down and wept at a truth commission hearing in Durban yesterday when asked about attempts by the security police to recruit him as a government agent.

Daluxolo Luthuli, 50, is applying to the commission's amnesty committee for amnesty for murders committed by an Inkatha Caprivi-trained squad he commanded in the early 1990s.

Luthuli, a grandson of former African National Congress leader and Nobel Peace Prize winner Albert Luthuli, was also an Umkhonto we Sizwe cadre and spent time on Robben Island. He has admitted leading "the Caprivians" on a reign of terror against United Democratic Front-supporting areas in KwaZulu-Natal.

Luthuli appeared confident during his testimony about murders and assassinations, but broke down and wept

when asked about attempts to recruit him as a security police agent. Luthuli was being questioned by Jeff Hewitt, SC, who is appearing for Inkatha Freedom Party officials.

Luthuli said the security police did try to recruit him to gather information about MK members in KwaZulu-Natal, but he refused. BD 9/4/98

When asked if he was offered any inducement, Luthuli replied that the way the police operated was to torture one to the point where he agreed to cooperate with them.

At this point Luthuli broke down and began crying. The amnesty committee adjourned for 10 minutes while Luthuli recovered his composure.

He then continued his testimony, and when asked again about the inducement offered to him by the police, he said he received no offer of payment.

The hearing continues. — Sapa.

Weeping IFP soldier recalls police torture

'They used shocks to get my info on MK'

ARGUS CORRESPONDENT
ARL 99/4/98

Durban - Former Inkatha military wing commander Daluxolo Luthuli wept at a Truth Commission hearing here as he recalled his torture by security police seeking information about Umkhonto weSizwe

He said the security police had attempted to recruit him and had tortured him with electric devices, forcing him to disclose what he knew of the plans, the members and the camps of the African National Congress armed wing

Luthuli told the hearing that "there are still many Caprivi trainees (who operated with him) that have not applied for amnesty"

He said the late Chief Mhlabunzima Maphumulo, who was aligned with the ANC, had been ambushed by

(252)
Phumlani Mhlongo - a Caprivi trainee and member of the former Bureau of State Investigation unit of the KwaZulu police

Luthuli, now under the state's witness protection programme, was requesting amnesty because, he said, his killing of countless United Democratic Front and ANC members in the early 1990s had been motivated only by politics and on behalf of the Inkatha Freedom Party

"Dr Mangosuthu Buthelezi, who is the leader of the IFP, had requested permission from the former white government to establish a paramilitary wing for his party," Luthuli said

"And the training in Caprivi, of which I was part, was the wing," he said, when asked to verify how he operated on a political motive

Luthuli, who was trained by the IFP in Caprivi in the mid-1980s, said

that part of the policy during the training had been "not to kill innocent people", but during the operations in the then KwaZulu, senior IFP leaders had instructed the trainees to wipe out every household in an area suspected to have been dominated by the ANC

Jeff Hewitt, representing IFP officials at the hearing, said that the senior IFP leaders implicated by Luthuli in killing ANC and UDF members had in fact denied any association with Luthuli or the murders he had committed

But Luthuli recounted that Prince Gideon Zulu had specifically ordered the killing of a member of the Zulu royal house

He told the commission that he had often received gifts from Chief Buthelezi and Prince Gideon Zulu for "a job well done"

could plunge

Last man hanged in SA (252) could have been innocent

By ELLIOTT SYLVESTER

span # 11/4/98

The Government announced this week that the bodies of executed prisoners could be returned to their families for reburial.

We set out to trace the family and the remains of the last man hanged in South Africa. His name was Alpheus Sekoboane and he was put to death at Rooigrond prison on November 13 1990.

But in our quest we discovered more than we were looking for: Sekoboane never expected to be hanged and there is a great possibility that he was an innocent man - the victim of a corrupt and dysfunctional home-

land justice system and a crazed village mob that demanded justice at any price

Sekoboane's mother Margaret still maintains her son was with her on the night he is supposed to have murdered his former sweetheart Nkele Legotso.

Former homeland leader Lucas Mangope declined a plea for clemency.

Now you judge whether the Bophuthatswana Supreme Court was justified in ordering the hanging of Alpheus Sekoboane, who wrote to his mother shortly before his death, telling her he would be home "soon". He never arrived.

■ See Page 3

Luthuli's grandson tells of role as sniper and of men

By PAUL KIRK

The grandson of Chief Albert Luthuli this week told the Truth and Reconciliation Commission how he became the IFP's war-lord extraordinaire. Wordsworth was his middle name, but Duluxulo Luthuli was to become no poet — and neither would he follow in the footsteps of his famous grandfather, the founder of the ANC and winner of the Nobel Peace Prize.

This week Luthuli started his application for amnesty. He does not know exactly how many people he has personally killed. He cannot remember. But he can remember taking part in the massacre of pedestrians who insulted the IFP as they drove past.

He can also remember picking off UDF supporters with a sniper's rifle during fighting at Mpumalanga in KwaZulu Natal and during the "seven days war". And he can

remember being ordered to commit murders, distribute illegal guns and create mayhem.

His testimony implicates some of the most powerful men in KwaZulu Natal. Among others, Prince Gideon Zulu, Brigadier CP Mzimela, B B Biyela and M Z Khumalo are accused of ordering murders, assaults and various other crimes.

Luthuli also claims IFP leader and cabinet minister Chief Mangosuthu Buthelezi knew of and sanctioned hit squads.

Luthuli is now in the witness protection programme, guarded by armed men at all times. His confession to Colonel Frank Dutton had to be given in a safe house in Denmark. He is expected to return to the TRC on Tuesday.

At the age of 15, Duluxulo Luthuli left school, with strong encouragement from his father, to join in the struggle against apartheid.

After a midnight flight he crossed into Botswana, from where he was flown to Tanzania on board a dilapidated transport aircraft. There, at a camp named after his grandfather and the founder of the ANC, he met the first group of trained MK guerrillas who had fled South Africa in 1962.

Like them, Luthuli would not stay long in Tanzania. After three months he was flown to Odessa in the Ukraine where he underwent extensive training in musketry, explosives handling, sabotage and the blood-and-guts techniques of a heart-and-minds war.

Here, alongside operatives of the Palestine Liberation Organisation, Red Brigades and a host of African liberation armies, Luthuli became an expert shot under the tutelage of Soviet instructors.

Too young to spend time drinking in bars or partying in taverns, Luthuli spent his

leisure time at shooting ranges. Later, the long hours spent there would pay off when, armed with a telescopic rifle, Luthuli picked off UDF leaders from great distances with the precision of an expert marksman.

He spent 10 years on Robben Island after being found guilty of terrorism.

On Robben Island he broke bread and slept under the same roof as Nelson Mandela, Walter Sisulu, Jacob Zuma and Tokyo Sexwale. After serving his sentence, Luthuli was released in March 1979.

But before his release, he decided to make a crucial political change of direction. He decided to join Inkatha.

Within weeks he was introduced to Buthelezi. Luthuli was considered an important person — a highly trained MK soldier, a veteran of Robben Island and, not least, grandson of the great Albert Luthuli. Then, in 1982, the SADF attacked ANC

camp in Lesotho, which was no longer a safe haven for the ANC, and Chris Hani, along with other ANC leaders, had to flee. Luthuli had no means of contact with the ANC, no access to his friends and allies.

At the time, the ANC launched a campaign of making the country ungovernable. Inkatha did not believe in this plan. Militant youths forced people to take part in this operation, often using violence against their erstwhile allies in Inkatha.

With no contact with the ANC and constantly exposed to Inkatha ideology, Luthuli took the side of Inkatha.

His life is still at risk — hated by both sides. Advocate John Willms asked Luthuli "Was it impossible to leave a hit squad without being killed?" Answer "Yes, that's correct."

"Are there examples of people who tried to leave being killed?" Answer "Correct."

He killed

BRW 11/4/98

Ghost of the Gallows

The Government announced this week that the bodies of those hanged by the state can be claimed by relatives for reburial. ELLIOTT SYLVESTER went in search of the body of the last man executed in South Africa – and discovered a heartbreaking tale of deceit and injustice

SAW 11/4/98

(2/8)

Alpheus Sekoboane wrote a last note to his family from his Bophuthatswana prison cell. In it, in his usually neat and impeccable style, he told them he expected to be released "soon".

But instead of freedom, the 30-year-old was hanged and buried somewhere in a Mma-batho graveyard. To make matters worse, his shocked family found out about his state-ordered death by accident.

His dubious claim to fame the last man to be executed in South Africa.

But a *Saturday Star* investigation reveals that Sekoboane's horrific end may have been a terrible travesty of justice – and his more pressing claim to prominence may be that he was killed for a crime he never committed.

Sekoboane walked to the gallows alone on November 13 1990 and was laid to rest by strangers eight years ago after a shockingly inadequate trial which made a mockery of justice.

He never said goodbye to his loved ones because they were

bers – and that was why it was so shocking when an unruly and angry village mob – led by the murdered girl's father and the police – bayed for "justice" outside the Sekoboane home on June 5 1986. Nkele Legotso had been stabbed to death. Her body lay broken and bleeding at a bus stop, and an accusing finger was pointed at Alpheus.

His mother remembers the events of that cold Thursday morning clearly. "The police woke us and demanded to see Alpheus, who was sleeping. There was a mob there who were all accusing him of murder. Nkele's father led the group because he did not know that his daughter was seeing another man."

Sekoboane was arrested and taken to the local police station. His accusers weren't interested in the fact that Alpheus and Nkele had broken up several months earlier. Nor would they listen to his mother, who



WAS HE INNOCENT? Alpheus Sekoboane's family were stunned to hear of his execution.

swore that her son had spent that cold winter evening at his family's home. They were even less interested in listening to him when he told them the girl had been seeing a young man, who lived and worked at a nearby mine. Alpheus refused to confess, and

the police interrogated him. "The police beat him because he kept on saying he did not do it," recalls Sekoboane's sister Alice, who visited him daily at the police cells.

She also remembers the "fiasco" of the trial during which the state prosecutor constantly referred to the murdered girl as "the wife of the accused".

"Our lawyer did not always tell us when Alpheus would be in court, so we often missed parts of the trial," Alice remembers. According to Lawyers for Human Rights, Sekoboane did not file for clemency because he could not afford an attorney.

undertook the painful journey back to the place of execution, Rooigrond prison. The return signified their renewed hope of finding his body.

Margaret, his mother, has never put flowers on his grave or prayed at the headstone of the eldest of her seven children. For eight years, all attempts to trace her son's grave have been in vain.

"He is buried somewhere in Mmabatho's cemetery," North West Correctional Services spokesman Sarie Peens confirmed.

She said most of the Bophuthatswana government's records containing details of the burial sites of state-executed prisoners were destroyed when Lucas Mangope's regime was overthrown. "We are trying our best to determine the burial sites and we will inform the family of any new developments."

Originally the family intended to rebury the body in the community graveyard, close to Sekoboane's father and the girl

and time have scuttled this plan. "I don't want to dig up his grave because there are only bones there now. All I want to know is where he is buried so that I can put some flowers down and pray for him to rest in peace," Margaret said.

Something else bothers the family: none of Sekoboane's relatives were present at the execution because they were not informed. It was only when his brother-in-law Sakra Mogaile visited Rooigrond a week later that he was told of the hanging.

His mother still clings to the last letter he sent her, dated July 2 1990 – a reminder of his determination to return home. Neatly in his native Tswana, Sekoboane relates the hardships of prison and his assurance that he was innocent.

he was accused of murdering.

However frustration and time have scuttled this plan. "I don't want to dig up his grave because there are only bones there now. All I want to know is where he is buried so that I can put some flowers down and pray for him to rest in peace," Margaret said.

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Margaret remembers the last time she saw him. It was at Rooigrond and she was seated opposite him, separated by thick panes of glass.

Originally the family intended to rebury the body in the community graveyard, close to Sekoboane's father and the girl

and time have scuttled this plan. "I don't want to dig up his grave because there are only bones there now. All I want to know is where he is buried so that I can put some flowers down and pray for him to rest in peace," Margaret said.

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injunctions 0 & omelres away in his hometown of Mogwase awaiting his return, completely unaware of his execution

For years his final resting place remained a mystery because of legislation which declared the bodies of executed prisoners to be state property

But who was this slightly built man who ended his life dangling on the end of a rope?

Affectionately known as "Ou Raol" (old red) because of his complexion, Alpheus Sekoboane was a shy loner who spent most of his time at home

"He preferred being at home with us and spent his time playing sports or making little wire cars," recalls his mother

He left school after completing Std 6 He worked at two mines close to the family home in Mogwase and later at an AECI factory

Described by family and friends as a quiet man, he was jokingly called a *bangbroek* (coward) because he always avoided conflict and ran away from fights

He was a conscientious member of the local Dutch Reformed Church choir

Then he surprised his family—he started dating a pretty and popular local girl, Nkele Legotso It wasn't a serious relationship, according to family mem-



BLOODY SOIL. Margaret Sekoboane outside Rooigrond jail, where her son was executed by the Bophuthatswana regime years after a trial that was possibly a travesty of justice

PHOTOGRAPH CATHY PINNOCK

talk to him properly because an armed guard sat next to us listening to our conversation"

But, Alice says, neither the guards nor the walls could prevent his tears

"That day he cried and told me he was very sad but he was praying to be released He was already in for five years and he thought he was coming home"

A week later he was dead

At the time there were 51 prisoners on death row for politically motivated crimes and 283 others facing possible execution for common-law crimes None were put to death

The Rooigrond gallows room where Sekoboane was executed has been dismantled and now serves as a storeroom, but the events surrounding his death are still painfully real for his family

"I cannot be happy here knowing this was the last place Alpheus was alive," younger brother Paul said outside the gates of Rooigrond prison

There were attempts to save Sekoboane When they were informed of his pending execution, Lawyers for Human Rights instructed attorneys to proceed with an application for a stay of execution

The court denied the application on the grounds that Mangope had decided not to grant clemency

'Race war' splits KwaZulu's legal fraternity

Anger as judges unite behind former Broederbond

ANKASH BRAMDEO

Durban - The scales of justice swung wildly in controversy this week as a race war dogged the appointment of KwaZulu Natal's deputy judge-president

The province's legal fraternity was split on racial lines as the Judicial Services Commission (JSC) interviewed the two prospective candidates - Judge Vukta Tshabalala and Judge Willem Booysen - for the top-level post

Judge Tshabalala, a doyen of black lawyers, was a member of the Natal Bar for 29 years before being appointed as a judge in the Ciskei High Court, three years ago

Judge Booysen, a former Afrikaner Broederbond member, has 30 years' experience and is supported by the Natal Bench, which is dominated by white males

Matters came to a head this week

when 14 KwaZulu Natal judges (13 men and one woman, all white) petitioned the JSC against Judge Tshabalala's appointment

In a move lambasted as racist by supporters of Judge Tshabalala, they claimed he was a junior judge and would not be able to command the respect of other judges on the Bench

Krish Govender, spokesman for the National Association of Democratic Lawyers (Nadel), the organisation that nominated Judge Tshabalala, described as "hacked" the argument that these judges were more experienced and, therefore, more competent

Describing Judge Tshabalala as the "father of all black lawyers" in terms of his seniority and humanity he said "These judges have the temerity to waive the years of service to the apartheid regime as a credit worthy of recognition

"Almost all these judges served

the apartheid order and, in effect, supported the denial of human rights to the majority

"The record of black and progressive lawyers who opposed the

'These judges have demon strated how deeply the Bench is infected by racism'

apartheid regime and fought for the dignity of all the people of South Africa stands in stark contrast to them"

He added that while Judge Tshabalala was denied certain opportunities, he always had been just and had treated all human beings with dignity and respect

"These are the qualities the vast majority of people expect of judges under the new democratic order"

Moshant Makgale, spokesman for the Black Lawyers Association (BLA), said the petition confirmed the need for Justice Minister Dullah Omar to transform the Bench

He said "These judges have demonstrated how deeply the Bench is infected by racism

"The public can have no confidence in judicial officers who seek to perpetuate apartheid

"That these judges can be silent about Mr Justice Booysen's membership of the Broederbond is instructive"

Mr Makgale called for Minister Omar to purge the Bench of those opposed to a culture of human rights

He added that the JSC should scrutinise the record of each apartheid-era judge at public hearings before a decision was taken on their future



Dullah Omar: call for transformation

In a separate, but related development, Durban advocate Rashid Vahed, who was being interviewed for one of three vacancies on the Natal Provincial Bench, was ques-

tioned on his "struggle credentials"

Whether the contribution towards the liberation struggle should be a criterion for the appointment of judges has received mixed reaction from the legal fraternity and political parties

Advocate Vahed said his appointment should be on the basis that he was a fit and proper person and competent to be a judge

Julian von Klemperer, president of the Natal Law Society, said a person's involvement in the struggle should not be a criterion, but neither should it be an impediment

He said that the main characteristics were fairness and legal excellence

The Democratic Party leader in KwaZulu Natal Rodger Burrows said "The criteria set by the constitution and the Judicial Service Commission should be the only significant factors when choosing judges

"In the selection of the judiciary,

experience must outweigh outside factors

"I would rather have a judge who is good at law than one who is good at politics"

National Party executive director Renier Schoeman said a person's involvement in the liberation struggle should not be a criterion

He said "We need to transform the country in terms of the constitution

"However, transformation has nothing to do with the liberation struggle or cloning the African National Congress into every structure of government"

Inkatha Freedom Party spokesman Blessed Gwala said they did not believe a judge should be appointed based on his involvement in the struggle

The party did not want to become involved in the judicial process and they would welcome the appointment of Mr Justice Tshabalala

'The story of Appla's 'Throwing Stones'

Group 'proud' of bloodbath at King William's Town

MIKE EARL TAYLOR

East London - They planned the attack weeks in advance. The target was not a military base, a police station or a government building - it was a golf club.

They drove up quietly in a white Jetta, which was stolen in Butterworth.

Three men got out. They bore an arsenal of R5, R4, Uzi and AK-47 assault rifles, M26 grenades and Molotov cocktails. Two went to the front, one to the back of the club.

Then the men from the Lembede Regiment of the Azanian People's Liberation Army burst in and opened fire. When they had finished, 60 people were strewn

across the floor of the King William's Town Golf Club. Four were dead. Two of the injured were black chefs who worked at the club.

The soldiers "retreated", providing "covering fire" as they returned to their vehicle. No one shot back. The attackers called the operation "Throwing Stones".

Six years later, three Appla soldiers and a supporter have taken the stand before the Truth and Reconciliation Commission in East London to apply for amnesty. And it has emerged that little has changed since that Saturday night on November 28, 1992.

They remain proud of their work and of carrying out their orders. This week they were armed with rhetoric and a 128-page bundle of information on their operation.

Appla sympathiser Lungis' umzi-wonke Ntintli, 39, who teaches at Mfebele Senior Secondary School in the former Transkei, took the stand

He let out a tirade against the evils of colonialism. He said it was he who hid the weapons and who provided the hideout for the Appla gunmen.

In three days of evidence none of the group expressed remorse. Rather, they tried to persuade the amnesty committee that whites were legitimate targets in the fight to overthrow the apartheid regime.

Mr Ntintli told the truth commission that after the Pan Africanist Congress's call for intensification of the armed struggle in 1992 he started providing a safe haven for the Appla operatives.

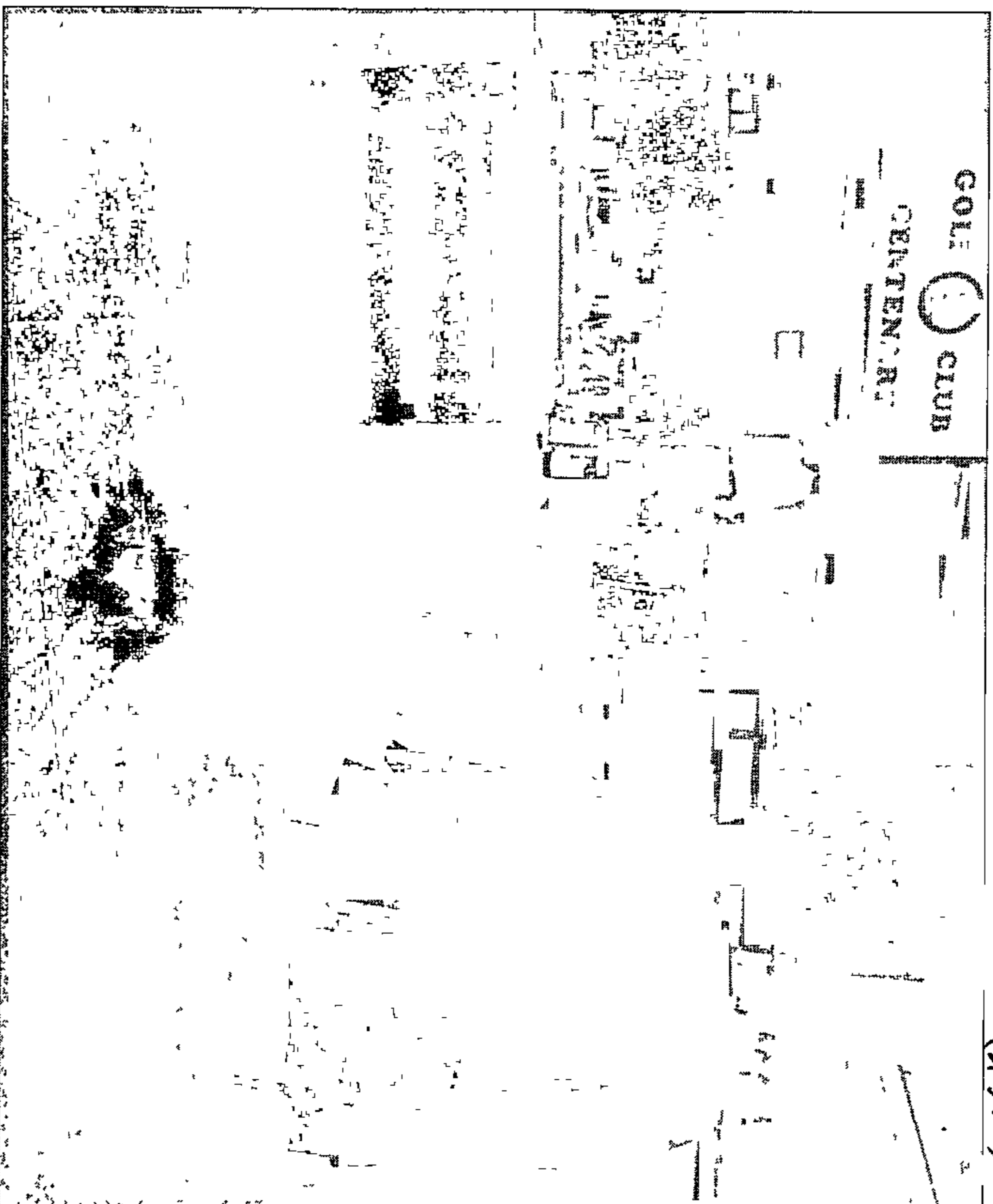
He was never charged for his role in the attack, but claims in his affidavit that he was "severely tortured until he lost consciousness" by the East London murder and robbery unit after his arrest at Komga in February 1993.

Mr Ntintli is applying for amnesty along with Tembela Xundu, Thobela Mlamhisa and Malusi Morrison.

Mr Xundu was Appla's Transkei regional commander. He has since been integrated into the South African National Defence Force and is based at Group 6 Headquarters in Port Elizabeth. Mr Mlamhisa is stationed at the army base in De Aar.

Mr Xundu led the attack. He told how, seconds after 10pm that night, he lobbed the M26 hand-grenade with nails glued to the casing into the club. In fluent English, Mr Ntintli told the truth commission he helped set fire to the stolen getaway car 10km outside Fort Beaufort three days after the raid.

He said "My experience of racism and settlerism and the knowledge that whites were enjoying the fruits



Flashback: a shredded jacket and a hole left by a grenade bear testimony to the Appla attack on the King William's Town golf club

of inhumanity and the social division of the African people were my reasons for assisting the Appla combatants. To me, this was a clear situation that could only be resolved by revolutionary conflict."

In his amnesty application, Mr Xundu said the intended target was East London National Party MP Ray Radue, visiting VIPs, senior police

regime. He was a good colonialist who could not live in a free Zimbabwe and he came here to oppress the African masses."

He was referring to Dr David Davies and his wife Gillian, who were killed in the attack.

Dr Davies's son Mark, a lecturer at the University of Cape Town who attended the three-day hearing, was aghast. He later told the committee his parents had no links with Zimbabwe.

Mr Ntintli then gave a lecture the truth commission on the role of Appla. He said "Appla was the defender of God's creation, the African people."

Questioned about the stolen Jetta, he insisted he did not know at the time that it was going to be used in the operation. He said he only heard news of the attack on Sunday evening. He and Mr Xundu set the car alight the following Tuesday. "I learnt they had carried out the attack when we burned the car."

He was arrested at the Komga T-junction on February 16, 1993. He said "The police sucked information out of me." Mr Ntintli claimed he was tortured until he lost consciousness. In his affidavit he claimed "I had to say anything about the attack in order to save my skin."

After cross-examination ended, Judge Wilson asked for the victims and survivors to come forward. Mark Davies said "I find it extremely disturbing that you say my father was a justifiable target simply because he was an immigrant from Zimbabwe. My father had no links whatsoever with Zimbabwe."

Earlier, an emotional Mr Davies, fighting back tears, was given the

'Appla was the defender of God's creation, the African people'

Judge Wilson asked Mr Ntintli whether he believed his actions furthered his political objectives. He replied "Yes, I believe the action made white people realise that military violence was right on their doorstep despite the efforts of their security forces. It also made them realise the security forces could not protect each and every individual white."

Mr Xundu and Mr Mlamhisa are facing murder charges but their cases have been suspended pending the outcome of their amnesty applications. Mr Mlamhisa has also admitted to participating in the St James' Church massacre in Cape Town on July 25, 1993. He faces 11 charges, including murder and attempted murder - ECN Weekend Service

(262) ARG 11/4/98

ANC leader's grandson who killed for Inkatha now faces TRC hearing

Buthelezi knew of hit squads – claim

(252) ARG 11/4/98

PAUL KIRK

Wordsworth was the middle name bestowed on Daluxolo Luthuli – the grandson of Nobel Peace Prize winner and ANC president Chief Albert Luthuli – but the young man was not destined to become a poet

Daluxolo was born in Georgetdale near Hammarsdale in 1948. He excelled at English but, at the age of 15, left school in the face of strong encouragement from his father to join the soldiers of the struggle against apartheid, Umkhonto weSizwe (MK).

After a midnight flight he crossed into Botswana from where he was flown to Tanzania on board a dilapidated transport aircraft. Here, at a camp named after his grandfather, Albert, he met the first group of trained MK guerrillas who had fled South Africa in 1962.

Like them, Mr Luthuli would not stay long in Tanzania. After three months he was flown to Odessa in the Ukraine where he underwent extensive training in musketry, explosives handling, sabotage and the blood and guts techniques of a hearts and minds war.

Here, alongside operatives of the Palestine Liberation Organisation, the Red Brigades and a host of African liberation armies, Mr Luthuli became an expert shot under the instruction of Soviet trainers.

Too young to spend time drinking in bars or partying in towns, Mr Luthuli spent his leisure time on shooting ranges. Later the long hours spent there would pay off when, armed with a telescopically sighted high powered rifle, Mr Luthuli picked off UDF leaders from great distances with the precision of an expert marksman.

After four years of often brutal training in the Soviet Union and Tanzania, Mr Luthuli was sent to ANC operational headquarters in Lusaka to commence active service. His first task here was to help establish a trail for MK guerrillas to infiltrate South Africa through then-Rhodesia.

While on this mission Mr Luthuli became involved in the Wankie campaign. During the most bitter fighting MK ever saw, Mr Luthuli counted Chris Hani as a comrade in arms. He then returned to Lusaka where he had a break until a week before Christmas, 1967, when he was summoned to meet an undercover operative, Mandla Nkosi, at Messina. Mr Nkosi had been operating in Durban for some time and was en route to Lusaka.

No indication was given to Mr Luthuli as to why Mr Nkosi wanted the meeting but Mr Luthuli assumed he had vital information for the ANC.



Hitman Daluxolo Luthuli went from fighting as a MK soldier to killing for Inkatha

Unbeknown to Mr Luthuli, Mr Nkosi had been arrested by the security branch and the meeting was a trap. Mr Nkosi was shot dead outside his home in mysterious circumstances two years later. By then he had reached the rank of sergeant in the security branch.

Mr Luthuli, though, would spend the next ten years on Robben Island after being found guilty of terrorism.

On Robben Island he broke bread and slept under the same roof as Nelson Mandela, Walter Sisulu, Jacob Zuma and Tokyo Sexwale.

After serving his sentence, Mr Luthuli was released in March 1979. But before his release, he decided to make a crucial political change of direction. He decided to join Inkatha.

"The reason for this was that Inkatha was the only political party blacks could legally belong to and at that time Inkatha was considered to be an ally of the ANC," he said. On his release, Mr Luthuli found his father had also joined Inkatha – perfectly in line with ANC policy at the time.

Within weeks of his release Mr Luthuli was taken to be introduced to Inkatha's leader, Chief Mangosuthu Buthelezi. Mr Luthuli was considered an important person – a highly trained MK soldier, a veteran of Robben Island and, not least, grandson of the great Albert Luthuli.

Although a member of Inkatha, Mr Luthuli continued to recruit members for MK and to this end often liaised with Chris Hani, who was based in Lesotho.

Then, in 1982, the SADF attacked ANC camps in Lesotho. Chris Hani, along with other ANC leaders, had to flee and Mr Luthuli had no means of contact with the ANC. He was cut off from his friends and allies.

At the time of Mr Luthuli's isolation from the ANC, the organisation launched a campaign to make the country ungovernable. Inkatha did not support this plan. With no instructions from the ANC and constantly exposed to Inkatha ideology, Mr Luthuli took the side of Inkatha, as he abhorred the

excesses of the young "comrades"

Mr Luthuli's first task was to help promote UWUSA, the Inkatha trade union. For years he was among the most efficient UWUSA organisers, winning over many members with his eloquence.

Then, in 1986, after the ANC announced on Radio Freedom that Inkatha was "the enemy of the people", Mr Luthuli was asked by Chief Buthelezi's personal assistant, MZ Khumalo, to become political commissar of the Inkatha Freedom Party.

Within a week Mr Luthuli was in a transport truck to Louis Botha airport in Durban – bound for a plane ride to the Caprivi Strip in then South West Africa.

Within five hours of boarding the plane Mr Luthuli was to become the first Caprivi trainee under the tutelage of officers of the South African army's crack 32 Battalion and 5 Reconnaissance Commando.

September 1987 saw all 207 Caprivi trainees return to South Africa. They were tasked with, among other things, VIP protection, guarding homes and offices and murder.

This week Mr Luthuli began his application for amnesty. He does not know exactly how many people he has personally killed. He cannot remember.

He can remember taking part in the massacre of pedestrians who insulted the IFP as they drove past.

He can also remember picking off United Democratic Front supporters with a sniper rifle during fighting at Mpumalanga and during the "seven days war".

He can remember being ordered to commit murders, distribute illegal guns and sow mayhem. His testimony implicates some of the most powerful men in KwaZulu Natal. Among others, Prince Gideon Zulu, Brigadier CP Mzimela, BB Biyela and MZ Khumalo are accused of ordering murders, assaults and various other crimes.

Mr Luthuli claims Chief Buthelezi knew and sanctioned the existence of hit squads.

Mr Luthuli is now in the witness protection programme, guarded at all times. His confession to investigators had to be given at a safe house in Denmark. He returns to the Truth and Reconciliation Committee on Tuesday. His life is still under threat – hated by both sides. Under examination by advocate John Willis, Mr Luthuli was asked "Was it impossible to leave the hit squad without being killed?"

The answer "Yes, that is correct". "Are there examples of people who tried to leave being killed?"

The answer "Yes that is correct".

'He does not know how how many people he killed. He cannot remember'

'Chief Buthelezi knew of and sanctioned the hit squads'

Call for commission to look at crime-fi

WILLEM STEENKAMP

(257)

ARL 11/4/98

Western Cape Premier Hernus Kriel has called on President Nelson Mandela to appoint a judicial commission to investigate legal flaws which are paralysing effective crime-fighting operations in the province.

In a letter to the president, Mr Kriel said "It is clear that problems are being experienced at central Gov-

ernment level in the police services with manpower, money manage-

ment, recruitment and expertise. "The same can be said for the Department of Justice, which is clearly not solving its problems, while Correctional Services cannot handle the prison population."

Mr Kriel wants a judicial commission consisting of three judges to investigate the problems and make recommendations on possible solu-

tions by the end of next month.

Referring to an earlier appointment of a provincial ministerial task team to find solutions to increasing crime and gang violence in the Cape, Mr Kriel said whatever solutions the team might come up with were "doomed to failure" because of severe shortcomings in essential government support systems.

Meanwhile, policing problems have also been highlighted in a spe-

cial memorandum on provincial police powers compiled by a top legal adviser to the Western Cape government. In the memorandum handed to the provincial government, the division of powers between central and provincial governments is spelt out. Legal adviser Dirk Brand found that under existing legislation the Western Cape government is effectively powerless to stop crime.

In terms of the memorandum,

local community security Minister Gerald Morkel has no executive powers to control the police in the province and has to ask national Minister of Safety and Security Sydney Mufamadi for help to combat crime.

The only powers Mr Morkel has are a monitoring and supervisory authority over police actions. He is also empowered to promote relations between the police and communities. And whereas other local min-

istries such as health and education have their own budgets to run the affairs of the province, this is not the case with Mr Morkel. He has a budget of only R6-million, of which R3-million goes toward funding anti crime police forums. Western Cape police commissioner Leon Wessels is in charge of the police budget for the province and controls an amount of more than R1-billion over which Mr Morkel has no say. Commissioner

Wessels reports directly to national police commissioner George Fivaz or Mr Mufamadi - although, constitutionally, he has to make an annual report to Mr Morkel once a year.

And when Mr Morkel - who has been criticised for his "lack of action" in combating crime in the Cape Flats area - wants to increase police patrols or take special anti-crime initiatives he has to go hat in hand to the national ministry for approval.

ghting powers

PW to go to court (262) after report dismissed

Arar 13/4/98

STAFF REPORTER

The stage is set for former state president P W Botha to appear in the George Magistrates' Court tomorrow on a charge of defying the Truth and Reconciliation Commission.

The TRC has dismissed a report that the commission was trying to sidestep a showdown with Botha in court by allowing him to testify in private before a TRC panel.

Botha's prosecution was in the hands of Western Cape Attorney-General Frank Kahn, and the TRC had no say on whether the trial should go ahead, the commission said.

Kahn said last week the trial would start as scheduled tomorrow. Botha is facing a charge of ignoring a subpoena, issued by the TRC, requiring him to testify about the role of the State Security Council, which he founded. If convicted, he faces two years' imprisonment or a R2'000 fine.

"I have carefully considered all the circumstances and the evidence and I am satisfied that Mr Botha is fit to stand trial, and accordingly he will attend court on Tuesday," Kahn said in a statement.

According to a report at the weekend, talks were under way to arrange a special TRC hearing for Botha in George should he agree to testify.

But the TRC yesterday denied this, describing the speculation as "a lot of hot air".

"The whole thing is up to the attorney-general now. It is out of the hands of the TRC," TRC spokesman Mdu Lembede said.

A spokesman for Botha was terse: "Mr Botha has just asked me to say that he has no comment to make about this matter at all."

Supporters of both Botha and the ANC have been given permission to demonstrate outside the court.

Community interest in TRC hearings

By Sharon Chetty

THE community of Esikhawini will be keeping tabs on the Truth and Reconciliation Commission hearings in nearby Richards Bay today as seven former hit squad members are expected to state their cases.

It is believed the men are the perpetrators of past violence in the region.

Led by Daluxolo Luthuli, the seven have admitted to 56 atrocities in which more than 100 people died. Several of the attacks happened in Esikhawini and the amnesty committee hearings

Southam 14/4/98
were moved there from Durban so that victims' families and survivors - who have opposed the amnesty bids - would be able to attend.

Luthuli and Romeo Mbambo, Brian Mkhize, Israel Hlongwane, Bhekisisa Khumalo, David Dhlamini and Berthwell Ndlovu all say they were acting on orders from Inkatha Freedom Party leaders who wanted rival United Democratic Front and African National Congress supporters "eradicated".

Luthuli has named Prince Gideon Zulu, a member of Zulu royalty, a Mrs Mbuyazi and BB Biyela as local IFP

leaders who ordered him and his men to attack and kill their opponents.

A Captain Langeni of the former KwaZulu police worked closely with the hit squad, they say.

The seven were trained by the former South African Defence Force in the Caprivi and claim their operations were approved by IFP president Chief Mangosuthu Buthelezi and that his personal assistant, MZ Khumalo often instructed them on who to kill and supplied them with weapons.

In Esikhawini, the local IFP leadership, especially Gideon Zulu, "con-

trolled the hit squad", Luthuli told last week's hearings.

He said that when ordered by Zulu to do anything, they would not ask questions and "do exactly as ordered".

It was impossible "even in your wildest dreams or imagination" to disobey Zulu, as they would have been killed, said Luthuli.

Since Zulu, who was close to Buthelezi, and the others were on the party's central committee, their actions were therefore authorised at the highest level, said Luthuli.

Luthuli, who was the political com-

missar and commander of the trainees in the Caprivi, said he would help to track down the rest of the men he had instructed.

Another applicant, Bhekisisa Khumalo, had said he was not surprised when asked to murder.

"It was my duty," he said when questioned about his role in the killing of UDF leader Zazi Khuzwayo in Clermont.

Khumalo afterwards apologised to Khuzwayo's widow who was in the hall and asked her forgiveness as the frail woman wept.

Legal deal in offing for PW

Star 14/4/98 (2572)

Ex-president due in court today -

but case is unlikely to be pursued

By ROBERT BRAND
George

Last-minute talks between P W Botha's legal representatives, Western Cape Attorney-General Frank Kahn and the Truth and Reconciliation Commission could save the former state president the embarrassment of a conviction

Botha (82) was to appear in the George Magistrates' Court today to answer to a charge of ignoring a subpoena to testify before the TRC. If convicted, he could face a fine of up to R20 000 or two years in prison.

The case, however, is unlikely to be pursued. Botha is believed to have agreed to testify before the TRC if the charge against him is withdrawn. His lawyers were expected to ask for an adjournment of the trial today on the basis that he will testify before the commission.

The Star understands that arrangements are being made for Botha to appear in camera before a TRC panel tomorrow.

TRC spokesman John Allen confirmed yesterday there had been "contact" between Botha's lawyers, the TRC and Kahn.

"The commission's position all along has been that if Botha is prepared to give evidence, we would make representations to the attorney-general to have the charge withdrawn. That remains our position," Allen said.

The TRC subpoenaed Botha last year to testify about the activities of the State Security Council, a body he created to deal with the "revolutionary onslaught." Botha refused, calling the TRC a "circus" and accusing it of engaging in a witch-hunt against Afrikaners. Since then, he has on several occasions publicly denounced the TRC and



P W Botha ... has he relented?

vowed not to co-operate with it. TRC chairman Archbishop Desmond Tutu arrived in George yesterday with his deputy Alex Boraine and TRC legal department head Hanif Vally.

Last week, Boraine told Rapport newspaper that the TRC would like to wipe Botha's trial "off the table".

"I wish there was a way in which the attorney-general and ex-president Botha's legal team could find each other and get this court battle over with."

Boraine said he hoped for a new initiative that could wipe out the "unpleasant saga" of the court case and settle the clash between Botha and the TRC, adding he wished the clash with the ex-president had never occurred.

"We never wanted Mr Botha in court. We don't want him in jail. We just want him to come to the TRC and supply the information we need. We will treat him with the greatest sensitivity."

When contacted yesterday, Boraine would only say court proceedings would start today. He would not confirm or deny that a deal had been reached allowing Kahn to drop charges

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Justice standing up to be counted at last

By CATHY POWERS

Thirty-five years ago political activist Nelson Mandela stood before a judge who sent him to prison on Robben Island

Last month President Mandela walked into the Pretoria High Court as a witness to testify in the SA Rugby Football Union (Sarfu) case

The moment was symbolic of change in several ways – the most visible being that in the new South Africa the courts are at the forefront of the major changes happening in the justice system

South Africa's courts, once peopled by judges who enforced apartheid laws, have of necessity embraced change and now strive to include the majority of people sidelined by the justice system during the old dispensation

Bringing them into a justice system they found unacceptable and bureaucratic, and to make that system accessible and affordable, is the overriding aim set out in the Department of Justice's ambitious 168-page document entitled "Justice Vision 2000".

The wide-ranging plan (set on enshrining the ideals embodied in the constitution) focuses on seven key areas: the Department of Justice, courts and the administration of justice, crime, safety and security, access to justice; human resources development, the legal profession, and the state legal and legislative services

'It's no use giving you medicine after you are dead'

Launched in September last year, it sets out specific time frames for key projects

But as a precise business plan, it opens the department up to risk and raises the question: has the department stuck to its goals and can it deliver on the rest?

SA National Civic Organisation (Sanco) legal adviser Farouk Peer criticised the timing of the projects, some of which will only come to fruition in the year 2000. "It's no use giving you medicine after you're dead"

Most people in this country lived reluctantly under a Western system of law of which they were ignorant, and they were still living under it

He personally sees community courts as the only solution but is not anticipating immediate changes

However, deputy director-general of justice Vusi Pikoli is confident. One of the dedicated drivers of the plan, he emphasised that the time frames were flexible and would galvanise the department into action

But Pikoli acknowledged that funding for many of the key projects was posing a problem. The department is still some R67,8-million short

Key projects still needing funds include family courts

which are R4,1-million short, community courts which need R2,6-million, the juvenile justice system which needs R11,8-million and the prevention of violence against women project is still short R3,6-million

This, however, would not halt the projects. Said Pikoli: "We're not waiting for money - we've started some projects and we will also look within our budget. We will try to cut down in other areas like travel and our telephone account"

Most of the projects which had funding were funded by foreign organisations and governments - a good sign, said Krish Govender of the National Democratic Association of Lawyers

"Foreign money is a good sign because instead of giving money to build houses for a few people they want to help build institutions of the state

"It's a long-term investment in revitalising the system - a solid, long-term investment. If the justice system is jacked up the country will run smoothly."

Despite the funding problems, many initiatives have begun in the form of pilot projects. A bail administration programme has reported phenomenal successes and the family court centre bringing together previously racially fragmented courts is well on its way

In addition various forums and task teams have been set up to investigate revamping the legal aid system and a justice system for young offenders, while training of staff is ongoing

The list is long but some like the automated maintenance project - where parents can collect maintenance from an ATM-type machine at courts - are well overdue

These are small projects in a large and convoluted system but the people who queue for maintenance, battle through divorce settlements or report abuse and rape will eventually see a difference

These people and those who work within the system will see changes. Prosecutors - underpaid, understaffed and breaking their backs under a work-load few could dream of handling, are demanding more for their efforts

Many have resigned and there are a number of vacancies as well as new posts being created to offset the load problem. The National Prosecuting Authority Bill will go some way to addressing this

The bill stipulates that prosecutors' salaries will be determined by the ministers of justice and finance and will not be linked to public servants' salary scale, according to Deon Rudman, deputy director-general legislation

But, he emphasised, this was still being debated by the Portfolio Committee on Justice

As with all projects, this one is going to take time

With dedicated staff steering the overall plan, the vision should ensure - despite the hitches - that by the year 2000 South Africa's justice system will truly mean justice for all

Legislation has to be reviewed, new legislation put in place, people have to be trained and the public has to be educated. This is all happening, albeit slowly. As Pikoli says: "It is not an event - it is a process"

ing plan focuses on seven key areas – and aims to make the plan accessible and affordable to all

Concept of community courts meets with guarded approval

By SIMON ZWANE

Let us restore power to the people, give them power to police and judge themselves and we will be freed from fear.”

This was Gauteng Premier Mathole Matshekgga's introduction for the concept of community courts, which he has incorporated into his philosophy of governance in the province. His concern seems to be that crime is escalating because the criminal justice system is overburdened by petty issues and juvenile offences.

His rationale is to “remove pressure from the system by creating municipal courts and decriminalising juvenile and petty offences.”

The concept of community

courts is not new. It is based on the age-old African idea of *isig-cawu* or *kgotla* (traditional courts), where communities collectively dealt with offenders in their midst.

Penalties ordered by these courts were designed to make offenders acknowledge their transgressions and to help reintegrate them into society rather than to punish, although corporal punishment was meted out in certain cases.

In the late 1980s the concept was adopted by anti-apartheid activists when they established people's courts. The excesses that they then committed in the name of people's justice discredited these courts.

Can a concept that has been vulgarised and has become synonymous with necklaced

killings and human rights abuse be resuscitated? Is it a viable option to unburden the courts and the police, allowing them to concentrate on serious offences?

The department of justice is investigating community courts and has incorporated them in its Vision 2000 plan to transform the justice system. The concept has also been discussed within the South African Law Commission.

Pat Mkhize is one of the lawyers who has shown interest in the matter and, like many

others, he thinks the courts are viable. However, he has reservations about the name “Once you speak of community courts, people think about kangaroo courts. We should think of a word that has never been used before. We could call them justice centres or alternative dispute resolution centres,” he says.

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People might think they're kangaroo courts

courts

deducted by the people themselves and the language used must be common to all the people in that community.”

These people should be trained in dispute resolution mechanisms and their powers, sentences they can impose and matters they can try should be prescribed in law to avoid excesses and the possible violation of the constitution, he says.

These courts, says Mkhize, should facilitate a resolution of disputes rather than a focus on fines and imposition of punishment.

Krish Govender, of the Association for Democratic Lawyers, says the concept “will give legitimacy to law and order” as it incorporates *ubuntu* into the legal system. But he cautions that if implemented loosely, it could get out of hand. Govender believes that there should be formal relationships between the community courts and ordinary courts of law.

“Community courts cannot cut themselves off from the rest of South Africa,” he says. “I think the legal system and the community must see themselves as partners.”

Govender is concerned that corruption and lack of resources could render the concept unworkable but is encouraged by the stance that Matshekgga has taken. He believes the system can work if those in power can redirect resources.

“I would give a lot of encouragement to the premier,” he says.

(2/17) Straw 14/11/98

New face of the law... maintenance adviser Portia Minisi brings justice to the people

Making life easier for people caught up in the red tape

By CARRIE POWERS

At 9am on a Tuesday morning Portia Minisi was busily sweeping out her tiny Maintenance Advice Office at the Johannesburg Magistrates' Court.

"I bet you didn't expect to see this," she said laughing. It was an unusual sight. And far removed from the expected image of the Maintenance Court where queues of patient women clutching babies waited for an entire day only to be confronted by a uninterested unhelpful clerk.

The maintenance system has traditionally been plagued by bureaucratic bungles in a situation where less than 6% of black people ordered to pay maintenance do so. Mothers complained of rude and off-hand treatment from court officials during their tedious three-month wait before their cases got to court. Others complained of maintenance-dodging fathers not bothering to appear.

"A lot of people queued the whole day only to find they don't have the proper papers or are in the wrong office," Minisi says. It is these hitches Minisi and her office - barely two months old - try to prevent. From 10 to noon Minisi acts as maintenance adviser and

Brighter, friendlier atmosphere for Family Court cases

By CARRIE POWERS

Changing the face of justice and the bureaucratic habits of the people who staff the system is a hard task.

This is what attorney Shirley Welsh found out during preparations for the new Johannesburg family court centre which is set to open in the city centre in June.

"Renovations and preparations (in the new building) are well under way but we've just heard they have started painting the walls brown - we had something brighter in mind," she said.

runs the help desk, fielding queries and complaints from anxious parents. On the wall outside her office is a list of instructions stipulating the information parents need to bring with them. People should look after their children well and not use their children in their domestic fights, the list states.

In February when the office opened, Minisi was flooded with more than 100 new complaints. Two months later Minisi is still

Painting the walls a brighter colour in lieu of the usual government-of-the-beige is one way of

making the courts dealing with divorce, maintenance and family violence more friendly and less intimidating.

The Family Court Centre, one of six pilot projects throughout the country, will bring Johannesburg's maintenance courts, family violence courts, divorce courts and children's courts under one roof.

"At the moment the system is not working - it's in disarray," said Ressa Gold-

blatt of the research office at the Centre for Applied Legal Studies.

Women and children, especially poor ones, are the sufferers in the present system, she said, which reflects the "broader inequalities in society".

The centralised family court centre would go some way to levelling off the different standards of justice in the various courts and doing away with its bureaucratic, family violence courts, divorce courts and children's courts under one roof.

Children's play rooms and conference-style offices in place of formal courts were also planned for the centre, said acting regional

busy but people are beginning to understand the maintenance process. The court clerks, too, have welcomed the office because it took the burden off them, she said.

The advice office is part of a larger process of overhauling the entire justice system, making it accessible and easy to use by a population which was deprived of justice during apartheid. Eventually, the Justice Department envisages par-

head of the Gauteng regional justice office Pieter Du Rand, making family justice cheaper and less abrasive. Highly skilled assistants would cut down the need for legal representation and cut through the legal jargon.

But fierce budget constraints have left the Gauteng Regional Justice Office looking elsewhere for funds to set up the centre. A private donation programme has been set up for funds to obtain toys for the children's playroom and to train the personnel needed - the biggest cost in the programme, Du Rand said.

Children drawing maintenance cheques from automated tellers installed at courts - but this was still a long way off, according to Justice Department spokesman David Porogo.

Set up by the Maintenance Forum - consisting of court staff, NGOs and the Justice Department - the advice office is independently run and financed with money from the Dutch government.

The forum has also been running maintenance workshops for the community at the Johannesburg Magistrates' Court and at township clinics.

These form a large part of Minisi's work. "Justice must change to a more user-friendly system and people need to be educated," she said.

During the workshops, Minisi has had to cut through many misconceptions. Some mothers believed they were not entitled to maintenance if they

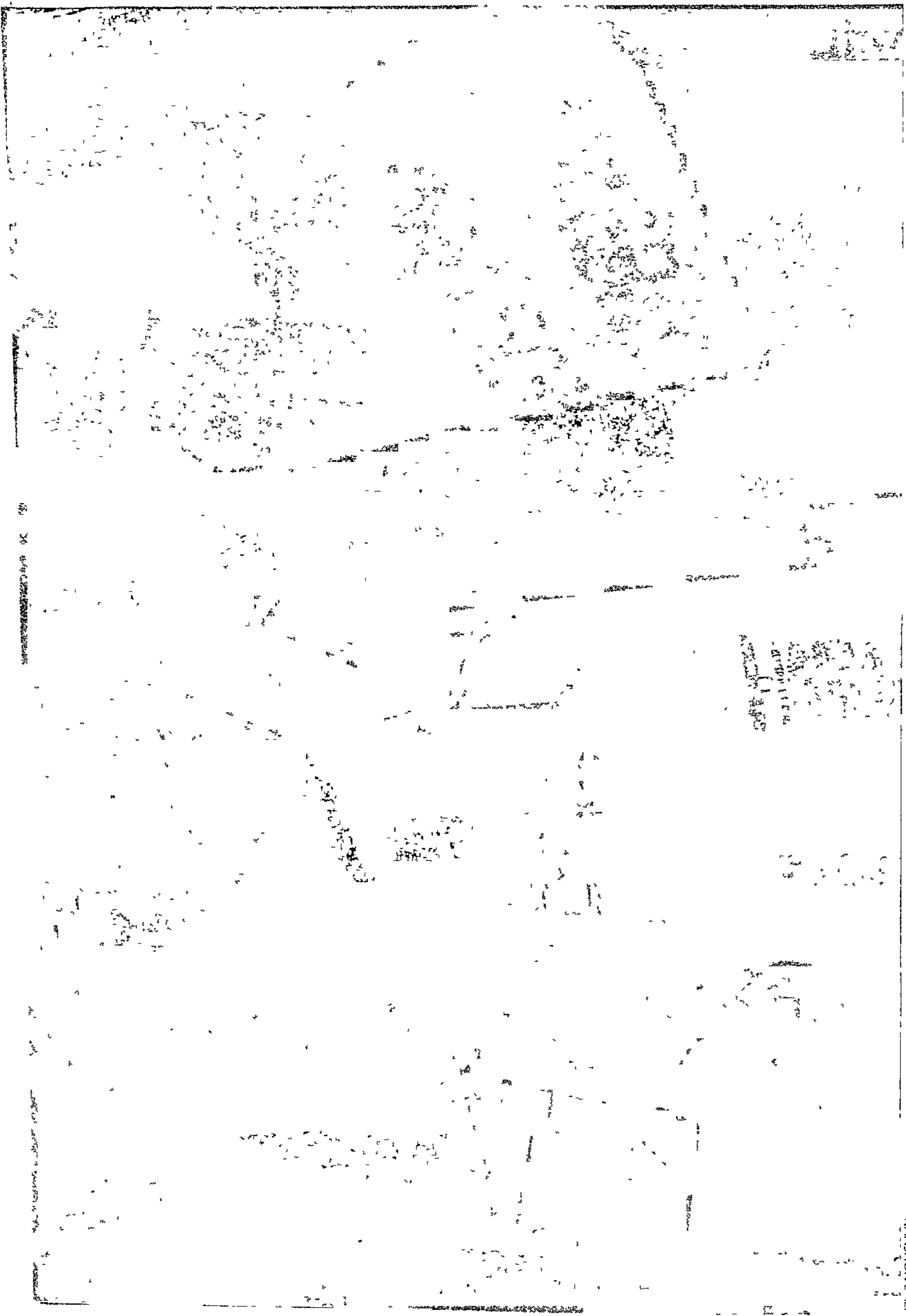
(2572) Saw 14/4/98

were in another relationship. To others at the Meadowlands clinic maintenance meant getting their former partners arrested, she said.

At workshops fathers complained they were unable to see their children although they paid maintenance. Minisi recalled one father who conscientiously sent monthly payments only to discover that his son had died months earlier.

Although the advice office is changing things for those who use it, it can only function within the parameters of the legislation governing maintenance. "Legislation is not up to standard," SA Law Commission researcher Pieter Smill said. He added that there were loopholes in the administration of the law enabling maintenance dodgers to hold up the process. "The commission is currently reviewing the laws and would recommend changes to the Justice Department later this year," he said.

Minisi was optimistic about the changes her office had brought about. But a mountain of work still needed to be done. The advice office is not just about maintenance. "People come to me with stories of divorce, marital problems, abuse and child abuse. Maintenance is just the tip of the iceberg," she said.



P W in 17th-hour drama

Case delayed as TRC tries for deal

JOHN YELD
ON THE TRUTH COMMISSION

George - The trial of former state president P W Botha was postponed almost immediately when the court convened here today so that a possible agreement with the Truth Commission could be formalised.

Mr Botha's lawyers were expected to agree that he would answer questions at a closed commission hearing here tomorrow.

In return the Commission will to ask Western Cape Attorney General Frank



W Botha: set to give evidence tomorrow

Kahn to drop the charge against Mr Botha of ignoring a subpoena to appear before it last year.

Mr Botha's lawyer, Lappe Laubscher, SC, told magistrate Viktor Lugaqu that there was no agreement of any sort, in spite of press speculation.

But Mr Laubscher said there had been contact between the commission and Mr Botha and he asked for the matter to stand down so that they would have an opportunity to resolve differences between the parties.

"I ask for the matter to stand down for an unspecified period - say an hour or so - to

see whether we are getting anywhere," he said.

"And may I just indicate on my client's part that there was never a blank refusal to co-operate with the Truth Commission."

He said Mr Botha had supplied the commission with more than 1 800 pages of replies to its written questions and that Mr Botha had invited the Commission to submit any further questions.

"There may or may not be a possibility that they can resolve their differences," Mr Laubscher said.

Bruce Morrison, from Mr Kahn's office,

the African National Congress to withdraw the charge against Mr Botha "That's rubbish," he said.

Commission chairman Desmond Tutu confirmed today that he had been involved in talks with Mr Botha's lawyers about a compromise. Archbishop Tutu, Dr Boraine and senior commission staff are in George. Archbishop Tutu said they had come for the trial but confirmed there had been negotiations.

"We have said from the very beginning we don't want Mr Botha to go to court or to go to jail."

He said as soon as Mr Botha indicated he was prepared to testify, the commission would ask Mr Kahn to drop the charge of failing to obey a subpoena to attend a Section 29 inquiry last year, alternatively of humbling the commission in its work.

From page 1 (252)

the Court was extremely tight and the main road past the building was cordoned off when Mr Botha arrived.

It is understood that any agreement between the commission and Mr Botha will include a proviso that Commission deputy chairman Alex Boraine, a former Progressive Federal Party member of Parliament and bitter political opponent of Mr Botha's government, will not be on the panel that questions Mr Botha.

A possible compromise between the Commission and Mr Botha has been the subject of negotiations by Mr Botha's lawyers, the commission and Mr Kahn over the past few days.

Dr Boraine strongly denied earlier media reports that the Commission had come under strong pressure from

(253) A/G 14/4/98

said in response that the State was ready to proceed with the trial and that witnesses were available to testify against Mr Botha.

"However, the State was approached about the possible agreement and if there is no undue delay, the State is amenable to the matter standing down," he said.

"On that basis we have no objection."

Mr Lugaqu then adjourned the matter. Mr Botha entered the court at 9 11am and waved to supporters who were in the small courtroom. Security at the George Mag's

To page 1

Archbishop Tutu said "All we are interested in is trying to get information from him in as amicable way as possible." But Mr Botha's team would have to give an undertaking "quite categorically" that he would appear.

Archbishop Tutu said the commission was not seeking to humiliate Mr Botha or "rub his nose in the dust".

The commission would be satisfied initially with an in-camera hearing, as provided for in the Act.

Archbishop Tutu pointed out that other senior politicians, including Winnie Madikizela-Mandela, had also been questioned behind closed doors. Mrs Madikizela-Mandela had then asked for a public hearing.

Archbishop Tutu described the negotiations as "a fairly delicate matter" and that a compromise would be "a sensible and honourable way out".

Confusion over PW Botha's 'agreement' to TRC hearing

(252) CT 14/4/98

A SPOKESPERSON for Archbishop Desmond Tutu late last night debunked a report that former state president Mr P W Botha has agreed to appear before the Truth and Reconciliation Commission at a one-day in camera hearing in George tomorrow.

Sapa reported late last night that "sources" said Botha had agreed to appear at a section 29 hearing as part of an information gathering exercise. If the hearing went well, the TRC was expected to ask Cape Attorney-General Frank Kahn to withdraw the charges against Botha, the Sapa report said.

But Mr John Allen, media spokesperson for TRC chairperson, Archbishop Tutu, said late last night that "the issue is still under discussion."

"There is no finality at this stage and we are not expecting a resolution or breakthrough tonight," he said.

Botha, 82, appears in the Magistrate's Court in George today to answer to a charge of ignoring a subpoena to testify before the TRC. If convicted, he could face a fine of up to R20 000 or two years in prison.

Allen confirmed yesterday that there had been "contact" between



MAY DROP CHARGES:

Frank Kahn

Botha's lawyers, the TRC and Kahn, but he was unable to confirm the nature of the talks. "The commission's position all along has been that if Botha is prepared to give evidence, we would make representations to the attorney-general to have the charge withdrawn."

The TRC subpoenaed Botha last year to testify about the activities of the State Security Council, a body he created to deal with the "revolutionary onslaught" by liberation movements.

Botha refused, calling the TRC a

"circus" and accusing the body of engaging in a witch-hunt against Afrikaners. He has on several occasions publicly denounced the TRC and vowed not to co-operate with it.

Tutu, who has been in spiritual retreat for the past week, arrived in George yesterday with his deputy, Dr Alex Boraine, and TRC legal department head Mr Hanif Vally.

Last week, Boraine told *Rapport* newspaper that the TRC would like to wipe Botha's trial "off the table."

"I wish there was a way in which the attorney-general and ex-president Botha's legal team could find each other and get this court battle over with," Boraine said.

He said he hoped for a new initiative which could wipe out the "unpleasant saga" of the court case. "We never wanted him in court. We don't want him in jail. We just want him to come to the TRC and supply the information we need. We will treat him with the greatest sensitivity."

When contacted for comment yesterday, Boraine would not confirm or deny that an agreement has been reached. — Staff Writer and Own Correspondent

Natal judges' actions 'smack of racism'

BD 14/4/98 (252)

Farouk Chothia

DURBAN — Judge Vuka Tshabalala has described the actions of the 14 Natal judges who attempted to block his appointment as the province's deputy judge president as "smacking of racism", accusing them of opposing transformation of the bench

He was quoted in City Press on Sunday as saying the judges were entitled to object to his nomination, but the "thing is the way they did it — clubbing up like they did against me"

Tshabalala said yesterday he stood by his comments.

The 14 judges argued that he should be overlooked because he was a "junior judge" but Tshabalala said Natal

Judge President Alan Howard had been appointed to his post even though there were judges more senior than him. "Seniority is not issue The issue is whether they (the judges) want transformation or not"

On criticism that he lacked experience or that he was not a "legal heavyweight", Tshabalala said this was not the reason behind the opposition. He knew how the bench worked and was a candidate for the post of deputy judge president, not judge president. His role would have been merely an administrative one and he would have been required to "fill in" for Howard and to assist in the allocation of work to judges

Tshabalala said the transformation process required the bench to become

representative of SA's population to instil public confidence in the judiciary

Fourteen of Natal's 19 sitting judges called on the Judicial Service Commission last week not to appoint Tshabalala as he would not "be able to command the respect of the other judges". The judges called on the commission to appoint former Afrikaner Broederbond executive member Judge Willem Booysen

The commission failed to make a nomination after a deadlock in voting, with both candidates polling seven votes. It meets again in October

Tshabalala said he wanted the controversy to die down and would decide at a later stage whether to again make himself available for the post

'PROBLEM IS AN OLD CROCODILE'S EGO'

It's D-Day for defiant Botha

GEORGE: Representatives for the former president and the TRC were locked in negotiations late last night trying to resolve their differences. **ROBERT BRAND** reports

FORMER state president Mr P W Botha's face told a story yesterday when he re-entered the courtroom after six hours of negotiations between his lawyers and the Truth and Reconciliation Commission

Gone was the cheerful smile with which he greeted journalists and a handful of his own supporters when he first stepped into the George Magistrate's Court in the company of his three lawyers shortly after 9am

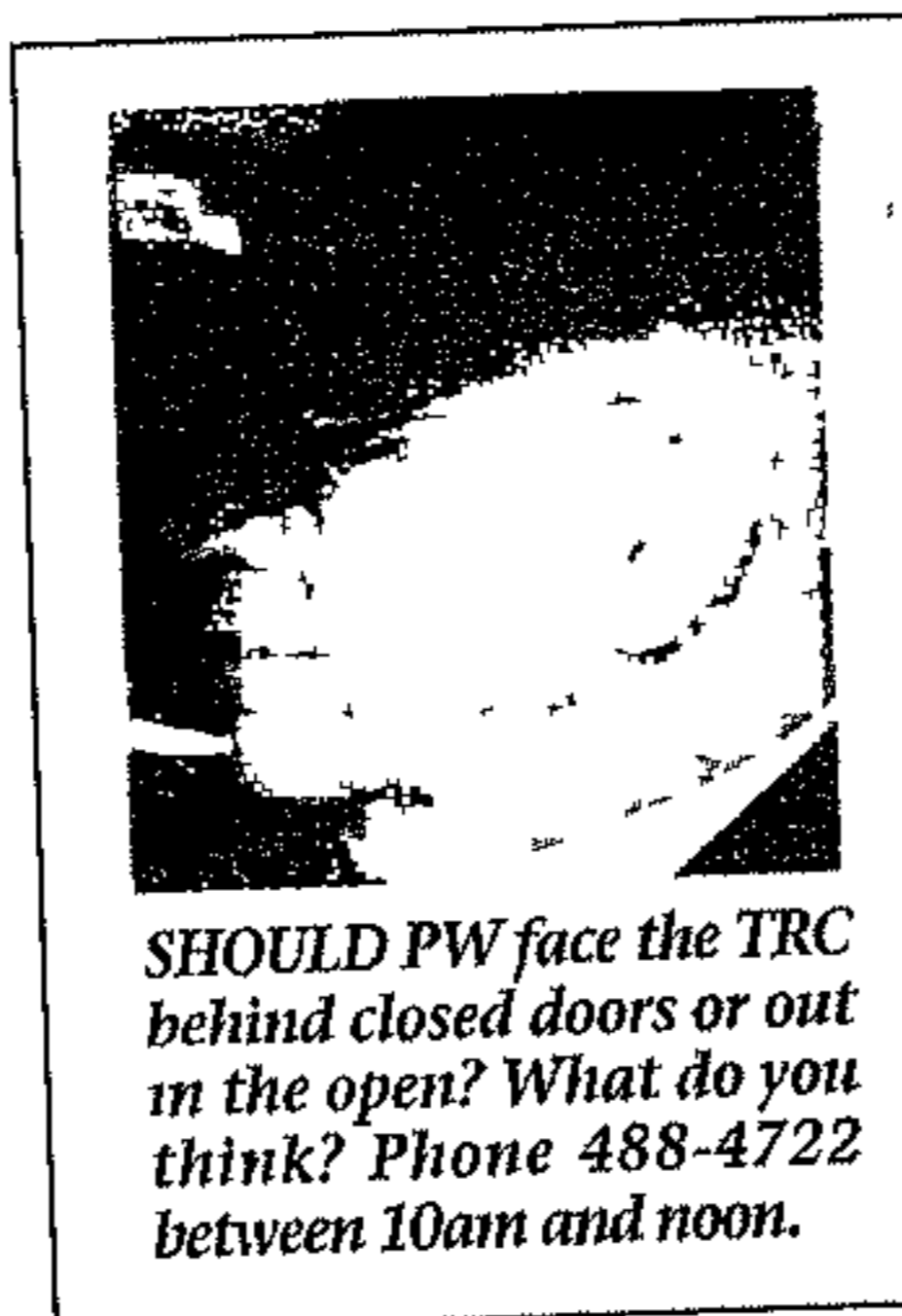
Now, at 3:35pm, he walked in alone, ignored his lawyers who were waiting inside and waved once to the gallery before taking his seat next to the dock, his arms folded across his chest, his expression grim and defiant

It was immediately obvious to every person in the courtroom that there was no deal yet

Deputy Cape Attorney-General Bruce Morrison, SC, who is prosecuting this case, put it into words for the benefit of Magistrate Victor Lugaju "The parties are very close to an agreement, but an agreement has not yet been struck. The attorney-general instructed that unless the parties come to a definite agreement before eight o'clock tomorrow (today), the case must proceed"

Botha is facing charges of ignoring a subpoena to testify before the TRC on the activities of the State Security Council. If convicted, he faces two years' imprisonment or a R20 000 fine

Cape Times' sources confirmed that an understanding had already been reached and that Botha would testify before the TRC in return for the prosecution being dropped



SHOULD PW face the TRC behind closed doors or out in the open? What do you think? Phone 488-4722 between 10am and noon.

Yesterday afternoon, a conference room in a George hotel was already being prepared for the hearing. The dispute is about the circumstances under which he should testify

At various times, Botha's camp has suggested a one-on-one meeting between the former president and TRC chairman Archbishop Desmond Tutu, a hearing closed to the public and the media, and the absence of Tutu's deputy, Dr Alex Boraine, from the TRC panel

The first option is totally unacceptable to the TRC, the second acceptable, providing the information obtained in the hearing could be made public later

Boraine has already declared himself willing to recuse himself from the hearing, but the TRC would be unwilling to be dictated to regarding the composition of the panel

There is also concern in TRC circles about the effect of withdrawing the prosecution. Botha has already pleaded, which means that

he would be entitled to an acquittal if the charges are dropped, his attorney, Mr Ernst Penzhorn, confirmed. It would then be legally impossible to pursue the charges. The problem may also be P W Botha, who appears to be at odds even with his own lawyers

The lawyers have been engaged in secret talks with the TRC and the attorney-general's office for more than a week, but Botha, who has publicly vented his contempt for the TRC, appears concerned about losing face

After the adjournment of the trial yesterday, Penzhorn was seen speaking emphatically to Botha and steering him away from the media contingent

"The problem is an old crocodile's ego," quipped a source close to the negotiations

Should Botha lose the trial, he is likely to appeal, which would be the start of drawn-out and financially ruinous legal battles, as the state is not paying for his defence

He is banking on support from right-wing circles, but that support was not in evidence yesterday. Only a handful of Conservative Party members — Botha's sworn enemies when he started introducing reforms in the 1980s — were present to show solidarity

Legal representatives for Botha and the TRC were locked in negotiations late last night, and although not overly optimistic, they held out hope of a resolution

"The discussion will continue," said Penzhorn

Tutu said "We believe we are very close to an agreement. The negotiations are on a knife-edge"

Neither side would comment on the nature of the negotiations, which will become known at 8am today. If no agreement has been reached by that time, Morrison will call his first witness in the state vs P W Botha an hour later

CT 15/4/98

(2/17)

Hit-squad's role revealed

(252) ET 15/4/98

RICHARDS BAY: Hit-squad members instructed in conventional warfare were trained as special constables in the SA Police before being deployed in the KwaZulu Police to further the interests of the Inkatha Freedom Party before the 1994 election, the Truth and Reconciliation Commission was told yesterday

The TRC's amnesty committee was told that recruits trained in the Caprivi in then-South West Africa used their influence in the police to cover up assassinations and random attacks on political opponents

The insider role of the Caprivians emerged during the application for amnesty by Brian Gcina Mkhize, who was one of a seven-member IFP hit-squad that has admitted being involved in more than 50 incidents of violence in the province

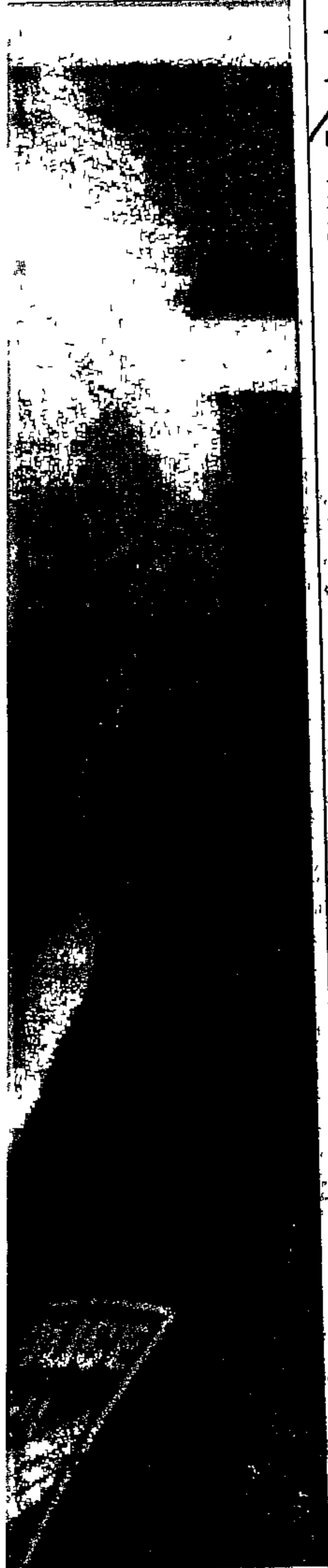
The application for amnesty began in Durban last week, but moved here at the request of the communities of Eshowe and Empangeni who were subjected to attacks from the hit-squads in the late 1980s and early 1990s

Mkhize, who is serving a 20-year sentence after being convicted for two murders in 1994, said when they completed their training, they were taken to a place near Ulundi where they were welcomed by IFP leader Chief Mangosuthu Buthelezi. Mkhize said that he and other KwaZulu Police officers concealed and assisted the activities of undercover IFP operatives carrying out attacks in the townships

Mkhize is expected to give details today of the killing spree that terrorised the residents of Esakhawini in 1992 — Sapa

iller

NAASHON ZALK



No deal, PW tells baffled⁽²⁴²⁾

lawyers

8/10/15/4/98

By ROBERT BRAND

Former state president PW Botha rejected a deal with the Truth and Reconciliation Commission early today and appeared briefly in the George Magistrates' Court.

"I am not prepared to testify before the TRC," Botha told The Star at the court.

"I am prepared to have a discussion with Mr Mandela and Dr Tutu," he said before entering court where he is facing charges of ignoring a TRC subpoena to testify before them.

Arriving at the court building shortly before 9am, TRC legal adviser Jeremy Gauntlett SC told reporters: "He (Botha) has repudiated everything we've been talking about."

After rejecting the deal, Botha appeared briefly before magistrate Victor Lugaju, who granted an hour-long adjournment to Botha's legal team. The case was to restart at 10am.

Lawyers for Botha and the TRC negotiated all day yesterday in an effort to hammer out a deal.

The TRC has said that if Botha is prepared to testify behind closed doors before a TRC panel, it would request Western Cape Attorney-General Frank Kahn to drop the charges.

Botha's lawyers and Kahn are in favour of a deal, sources said. But Botha has refused to budge.

At 7:30pm yesterday, the former state president announced he was going to bed and would give his answer today, leaving his own lawyers and the TRC guessing about his intentions.

By 8am today, when the attorney-general's deadline for a deal had expired, Botha had informed the TRC that he was not prepared to testify before them.

► Yesterday's deadlock

rday.

I was proud of attack on hotel, says amnesty seeker

(242) / Star 15/4/98

East London - A former-unit commander of the Azanian People's Liberation Army told the Truth and Reconciliation Commission's amnesty committee yesterday that he felt proud when he took part in an attack on the Yellowwoods Hotel near Fort Beaufort in March 1993.

He said he had wanted to liberate the country from white oppression.

Port Elizabeth Technikon student Johan Jerling (18) died after being shot while sitting in the hotel's bar.

Amnesty applicant Vuyisile Madasi, who is serving 24 years for his part in the murder, said he and three other Apla members carried out the attack as soldiers after being given orders by Apla commander Letlape Mphahlele.

Madasi said that before the attack, he and his fellow soldiers - whom he knew as Mlungisi and Nceba - observed the hotel and saw that

it was frequently visited by military officers.

He said an early attempt to carry out the operation was aborted after one of his comrades was arrested. He and the other comrades were then accommodated in Mdantsane, near East London.

On the Friday before the shooting, the men went to the hotel but found it shut. Madasi said they returned the next day. He and Mlungisi entered through the front while Nceba stood guard at the back door.

Asked whether he shot Jerling, Madasi said he could not say as he and Mlungisi were shooting at the same time.

It took them three minutes to complete the operation. They drove off and left their car near King William's Town.

Madasi urged the amnesty committee to speed up amnesty bids by Apla combatants, saying not a single Apla applicant had received a ruling on his application. - Sapa

PW off to bed despite urgent bid to strike deal

ANNA ZIEMINSKI / AFP

Star 15/4/98 / 252

Even a phone call from Mandela fails to persuade Groot Krokodil to testify before TRC and avoid prosecution

By **ROBERT BRAND**
George

Not even President Nelson Mandela, who phoned PW Botha yesterday morning to urge him to appear before the Truth Commission in the interests of reconciliation, could sway the former state president

The prosecutor in Botha's trial, Western Cape Deputy Attorney-General Bruce Morrison SC, told the George Magistrates' Court yesterday that Western Cape Attorney-General Frank Kahn had ordered the trial to proceed today unless the parties could come to an agreement before 8am

Earlier, the trial was adjourned to give the parties time to agree. Negotiations continued last night

A reliable source close to the negotiations told The Star that Botha had vacillated until 7.30pm, when he decided to go to bed, saying he would give his answer today

The source said Botha's lawyer was anxious to clinch a deal, and the TRC was prepared to ask Kahn to drop charges if Botha agreed to answer questions from a TRC panel behind closed doors, but it all hinged on Botha's answer today

Now he will be tried on charges of ignoring a subpoena by the TRC to testify about the activities of the State Security Council, a body he created to deal with the liberation struggle. If convicted, he could be sent to jail for two years or fined R20 000

Morrison told magistrate Victor Lugaju before the adjournment "The parties are very close to an agreement, but it hasn't yet been struck"

Botha's lawyer has been engaged in secret talks with the TRC and the attorney-general's office for more than a week, but Botha, who has publicly vented his contempt for the truth commission on several occasions, appeared concerned about losing face

After the court adjournment yesterday, Ernst Penzhorn, Botha's lawyer, was seen speaking vehemently with him and steering him away from the media

"The problem is an old crocodile's ego," a source close to the negotiations is said to have quipped

Should Botha lose the case he is likely to appeal, which would be the start of drawn-out and financially ruinous legal battles, as the State is not paying for his defence.

Commission told of IFP's Caprivi training link

ETW 15/4/98

(232)

Richards Bay - Hitsquad members instructed in conventional warfare were trained as special constables in the SA Police before being deployed in the KwaZulu Police to further the interests of the Inkatha Freedom Party before the 1994 election, the Truth and Reconciliation Commission was told in Richards Bay yesterday

The TRC's amnesty committee was told that recruits

trained in the Caprivi in then South West Africa used their influence in the police to cover up assassinations and random attacks on political opponents

The insider role of the Caprivians emerged during the application for amnesty by Brian Gcina Mkhize, who was one of a seven-member IFP hitsquad that has admitted being involved in more than 50 incidents of violence in the

province

The application for amnesty began in Durban last week, but moved to Richards Bay at the request of the communities of Eshowe and Empangeni who were subjected to attacks by the hitsquads in the late 1980s and early 1990s.

About 300 people arrived at the Zululand Chamber of Business hall and had to wait for the proceedings to get under way

The hearing was delayed because some members of the committee had to fly to Richards Bay from Johannesburg and then had to negotiate heavy traffic in the bustling industrial area of the port town

Mkhize is expected to give details today of the killing spree that terrorised the residents of the Esakhawini area near Empangeni in early 1992 - Sapa

DEFAMANT PW

Trial goes ahead as

'BLOWS IT'

Botha rejects TRC deal

AR 6/15/4/98

(292)

15/4/98

George - Former State President PW Botha has rejected all last-minute efforts to persuade him to appear before the Truth Commission.

His court case for refusing to obey a commission subpoena last December is now under way in the Regional Court here. Commission lawyer Jeremy Gauntlett said a day and night of negotiations had failed to reach agreement.

"He has effectively repudiated all the discussions He's blown it," said Mr Gauntlett. Truth Commission chairman Archbishop Desmond Tutu, who will be one of the key witnesses for the prosecution, said he was "very deeply distressed" as lawyers for the two parties had been agonisingly close to reaching an agreement last night.

Archbishop Tutu said "In fact, the two legal teams had found a generally-acceptable agreement except for one or two small amendments - and we went to bed thinking a deal was on the cards".

However, Mr Botha had dismissed any further negotiations today and the case was proceeding.

Mr Botha's trial resumed at 11 10am, after the one-hour adjournment, requested by his lawyers when the court convened soon after 9am, had stretched into a delay of more than two hours.

During the delay the small group of ANC supporters allowed into the courtroom became increasingly impatient, making loud derogatory remarks about Mr Botha and clapping and singing before they were stopped by police.

Archbishop Tutu emerged from rooms behind the court and immediately went into a huddle with his fellow commissioners, Truth Commission lawyers and staff.

"I must go out & I'm going to watch cricket," quipped Archbishop Tutu - indicating efforts to secure an agreement with Mr Botha had failed and the trial would resume. Mr Botha, wearing a dark suit, then

walked back into the courtroom with a slight smile. At the start of the resumed hearing, Mr Botha was asked to confirm that an amended charge sheet had been physically delivered to him. He stood up, took a few steps towards the recording microphone and answered loudly in Afrikaans "I confirm that that is correct".

Archbishop Tutu, who had to leave the courtroom because he is a witness, went outside and addressed a large media contingent. He said the Truth Commission had only wanted Mr Botha to answer questions which would have been put to him ahead of the proposed closed session. Asked what the sticking point was in failing to secure an agreement, Archbishop Tutu replied "I think fundamentally it stuck in his gullet to have to appear before the commission at all".

The first witness to be called by the prosecution was Truth Commission executive secretary Paul van Zyl.

He read to the court an extract from a transcript of the National Party's first submission to the Truth Commission in 1996 which quoted former National Party leader FW de Klerk as saying "Unfortunately, I have to state that I was unable to enlist the co-operation of my predecessor (Mr Botha), notwithstanding serious efforts to do so".

It had also been disclosed by former police commissioner General Johan van der Merwe during a Truth Commission amnesty hearing that Mr Botha had given an instruction to his then law and order minister, Adriaan Vlok, for police to bomb Khotsiso House, then headquarters of the South African Council of Churches.

These were two of the reasons why Archbishop Tutu visited Mr Botha in George in November 1996, Mr Van Zyl said.

In February Mr Botha pleaded not guilty to the charge of failing to obey the subpoena to appear at a commission hearing on December 19 last year, alternatively hindering the commission in the execution of its duties.

How hopes of a deal were dashed, page 3

In the dock former state president PW Botha leaves the Durban courtroom where he is on trial charged with failing to obey a subpoena.

Botha, truth body given until today to reach agreement

Taryn Lamberti

BO 15/4/98 (252)
GEORGE — Former state president PW Botha and the truth commission have been given until this morning to reach an agreement over Botha's refusal to appear before the commission.

Western Cape attorney-general Frank Kahn has warned that, if no agreement is reached by 8am, Botha's prosecution for failing to appear will proceed today.

Botha was due to stand trial in the George Regional Court yesterday for his alleged contravention of the Promotion of National Unity and Reconciliation Act by refusing to appear before the commission in December last year.

Botha's counsel, advocate "Lapa" Laubscher SC, requested that the matter stand down to give the parties a chance to resolve their "differences". No agreement had been reached by late yesterday and Magistrate Victor Lugaju postponed the matter to today.

Deputy attorney-general Bruce Morrison said Kahn had made it clear that "unless the parties come to an agreement by 8am the legal process will run its course" and the state's first witness would be called.

After the adjournment, commission chairman Archbishop Desmond Tutu said the parties were very close to reaching an agreement. "The negotiations are on a knife edge — we don't know which way it will turn."

If Botha agrees to testify before the commission at a special in-camera hearing, he is likely to be acquitted on the charge against him. He will also save on legal costs, as the state has refused to fund his defence.

Both sides remained tight-lipped last night but the commission's deputy chairman, Alex Boraine, told radio news the parties were "looking at every single word" of various proposals in an attempt to reach agreement.

For the past 18 months the commission had been striving for Botha to appear in person, he said. "We are trying very hard to accommodate Mr Botha. Negotiations began last week from the side of the defence. Our doors were wide open and we have tried to listen."

No comment on judges

(252)

PRETORIA — Justice Minister Dullah Omar said yesterday he could not comment on the petition lodged by 14 of Natal's 19 sitting judges not to appoint Judge Vuka Tshabalala as Natal's deputy judge president, because the judicial service commission was dealing with the matter.

The judges lodged an application with the commission last week, saying that Tshabalala should be overlooked for the post as he was a junior judge and would not be able to command the respect of other judges.

"The matter is before the judicial service commission. It is appropriate for the commission to deal with the matter," Omar said. "We created the commission because we wanted to strengthen the independence of the judiciary, while addressing the problem of representivity."

Omar said government had moved away from political interference in the functioning of the judiciary — Sapa

B0 15/4/98

'IFP hitsquad men infiltrated police'

190 15/4/98 (252)
RICHARDS BAY — Hit squad members instructed in conventional warfare were trained as special constables in the SA Police (SAP) before being deployed in the KwaZulu Police to further the interests of the Inkatha Freedom Party (IFP) before the 1994 election, the truth commission was told in Richards Bay yesterday.

The commission's amnesty committee was told that recruits trained in Caprivi in then South West Africa used their influence in the police to cover up assassinations and random attacks on political opponents.

This information emerged during the application for amnesty by Brian Gcina Mkhize, who was one of a seven-member IFP hitsquad that has admitted being involved in more than 50 incidents of violence in the province.

The application for amnesty began in Durban last week, but moved to Richards Bay at the request of the communities of Eshowe and Empangeni, who were subjected to attacks from the hitsquads in the late 1980s and early 1990s.

Mkhize, who is serving a 20-year sentence after being convicted for two murders in 1994, gave a long account of his upbringing in rural KwaZulu-Natal, his staunch support for the IFP and his recruitment for training in Caprivi in 1986.

When asked by committee chairman Judge Selwyn Miller to concentrate more on the events that the locals had come to hear about, Mkhize said he needed to explain what had led to his becoming a criminal.

Mkhize said he received training in the use of Russian firearms, rocket launchers, landmines, mortars, infiltration, espionage, sabotage and subversion.

When the recruits completed their training, they were taken to Ulundi, where they were welcomed by IFP leader Mangosuthu Buthelezi.

In 1988, an IFP official, MZ Khumalo, told the Caprivians that the IFP was accusing the SAP of siding with the African National Congress (ANC).

After a meeting between high-ranking South African policemen and Buthelezi, it was agreed that the Caprivi-trained recruits would be brought into the police force and trained as special constables at Koeberg in Cape Town.

The recruits received two salaries, one from the SAP and one from the KwaZulu Government. Mkhize said they later deserted after clashes with the SAP and were deployed in various parts of the province by the KwaZulu Police.

Mkhize is one of seven IFP members applying for amnesty for a wide range of massacres and assassinations in Kwa-Zulu Natal. He is expected to give details today of the killing spree that terrorised the residents of the Esakhawini area in 1992. — Sapa.

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Last hopes for settlement dashed as Botha says: 'I won't'

JOHN YELD
ON THE TRUTH COMMISSION

George - Up to the last minute Archbishop Desmond Tutu was hopeful the Truth Commission would succeed in getting former State President PW Botha to appear before it.

The marathon negotiations were "on a knife-edge", he told journalists late yesterday.

But this morning hopes for a resolution were dashed when Mr Botha told the George Regional Court he refused to testify before the TRC.

Archbishop Tutu, the commission chairman, had repeatedly said the TRC would ask Attorney-General Frank Kahn to drop the charge against Mr Botha if he agreed to testify and emphasised the TRC does not want him to be prosecuted.

There was some speculation that an agreement on Mr Botha's appearance at a closed hearing had already been reached on Monday but that Mr Botha had changed his mind at the last minute when this development was leaked to the press.

However, informed sources have denied this was the case. Ironically, the first story about the supposed agreement appeared in an Afrikaans weekend newspaper which traditionally has close links with Mr Botha and his supporters.

TRC lawyers negotiated inconclusively with Mr Botha's legal team for much of yesterday after the trial was postponed.

The court reconvened briefly at 3.45pm. As Archbishop Tutu and his deputy, Alex Boraine, entered the



ROY WIGLEY

Negotiations: Truth Commission chairman Archbishop Tutu talks to the media after discussions with former state president PW Botha in a small courtroom for the short afternoon session, they were loudly cheered and applauded by the handful of ANC supporters who had been allowed in.

Mr Botha, wearing a dark blue pinstriped suit, walked in soon after to take his place on a chair next to the dock and was applauded by a small number of supporters, including for

mer Conservative Party MP Ferdie Hartzenberg. There was a single loud "boo" for him from the gallery. Prosecutor Bruce Morrison, SC, from Mr Kahn's office, told mar-

trate Victor Lugau that while the opposing parties were "very, very close", they had not yet reached agreement. In the circumstances, the Attorney-General (Mr Kahn) had

(AP) PAK 15/4/98

instructed him to proceed with the trial and he was ready to call the witness, Mr Morrison said.

However, because it was so close to the end of the court day, he asked for the hearing to be postponed today. Mr Lugau granted the postponement without comment.

Emerging from the second postponement of proceedings just before 4pm to address an informal news conference in the street, Archbishop Tutu said negotiations, understood to have started several days ago, were "on a knife-edge".

"We believe that we were very close to an agreement. We do not know which way it is going to turn. We hope very much that agreement will be reached. That has been our purpose."

Archbishop Tutu said the commission did not want to fail in its effort to secure an agreement, nor did he want Mr Botha's trial to go ahead.

"We would regret that. But it is quite imperative that people realise that the TRC has been set up to do a specific job of work that is very important for the healing of our nation," he said.

Archbishop Tutu refused to answer any questions about the negotiations. A foreign correspondent tried her luck, asking "Can't you even tell us some of the sticking points, please?"

He replied jokingly "It's the weather!"

Mr Botha, who was seemingly ill at ease and confused during the morning session, was driven from the afternoon session in his luxury car and did not speak to the press.

WS

Mayor seeks amnesty for his part in killings

(252) CT 16/4/98

KOKSTAD: Four men, including the mayor, are to appear before the Truth and Reconciliation Commission next week in connection with their involvement in the killing of two local policemen in October 1993.

The mayor, Mr Mlungisi Nyembezi, is among the applicants for amnesty for their part in the abduction and killing of Constable Bernard Nhlanhla Ngubo and Constable Eugene Mlungisi Mbele and the bombing of the Bhongweni charge office in October 1993.

Both policemen were abducted from the Bhongweni police station at gunpoint while on duty, apparently by a group of "local" men known to them.

The policemen's bullet-riddled bodies were discovered by a motorist in the bushes beside the road to Bizana next day.

Both had been shot at point-blank range.

The applicants claim it was a revenge attack for an SA Defence

Force raid on alleged Azanian People's Liberation Army bases in Umtata in which women and children had been killed.

They have yet to say why they chose the Bhongweni police station and not an army base in the Eastern Cape.

News of the mayor's application for amnesty had received a mixed reaction by the community, many of whom feel he should resign.

Nyembezi has come under fire several times since his inauguration in July 1996.

His inauguration erupted into chaos and members of the National Party and Democratic Party staged a walkout.

Police were forced to intervene when about 500 toyi-toying people were refused entry to the proceedings.

Many claimed that Nyembezi had been elected by the Eastern Cape people and not Kokstad. — Sapa

Botha in the line of fire

(252)

ROBERT BRAND AND SAPA

GEORGE: The Truth and Reconciliation Commission subpoenaed former state president Mr P W Botha to explain secret government documents which appeared to contain orders to kill political opponents, TRC executive secretary Mr Paul van Zyl told the Magistrate's Court here yesterday

Van Zyl, the first state witness in Botha's trial, was explaining why the TRC had thought it necessary to subpoena Botha to testify at TRC hearing even though the former president had agreed to submit written answers to the commission's questions

Botha is facing charges of contempt of commission. He was subpoenaed to give evidence at a hearing on the activities of the State Security Council (SSC) in last year, but ignored the subpoena

The SSC minutes obtained by the TRC contained several references to "eliminating", "neutralising" and "destroying" government opponents, Van Zyl said. Several policemen, among them former police commissioner Johan van der Merwe, had said in amnesty applications before the commission that they had interpreted words such as those to mean "kill"

Van Zyl said the commission had no evidence indicating that Botha had been directly involved in human

rights violations such as the murder of political opponents, but the SSC minutes provided *prima facie* evidence that he had "created a climate" in which such acts could be committed

During a recess in proceedings, Botha told reporters he was still adamant he would not testify before the TRC. He had repeatedly responded to its queries and would not do so again. Impressions that he was running away from the court case were false, he said

Asked if he was worried about his defence costs, Botha said "Even if they destroy me, they cannot destroy my soul and my convictions"



BITTER TO END: P W Botha

door is open"

Van Zyl continues his evidence today. Tutu is expected to be called as the next state witness. The trial is scheduled to continue until tomorrow, when it is expected to be adjourned for at least a month

High price of PW's day in dock

DAN SIMON

ST 16/4/98

THE trial of former state president Mr P W Botha in George is going to be a costly affair.

The *Cape Times* has added up some of the costs to Botha, the TRC and the state, which has deployed hundreds of police officers, troops and traffic officials

To calculate Botha's legal bill, the *Cape Times* obtained some general guidelines from the Cape Bar Council as to the fees he can expect to pay his three-man legal team

● Working on these, and assuming Botha's trial lasts three days and entails daily argument in court, he may at the end of the day have to pay between R40 000 and R80 000

● Flying TRC commissioners and lawyers to George and putting them up in a three-star hotel and providing meals for three days will set the TRC back about R22 000

● It would be difficult to quantify what the state's overall bill will be as all parties involved, from the magistrate hearing the trial to the prosecutor, the interpreter and the police and army are salaried employees and this trial is in line with their official duties

But according to Superintendent W Bezuidenhout, a total of 43 officers and 315 police officers, defence force troops and traffic officials have been deployed to George from around the Western Cape and Port Elizabeth in the Eastern Cape

"That's our main problem. In terms of costs and time it is quite a task to keep the men here and to keep them busy," said Bezuidenhout

IFP LEADERSHIP CHANGED TACK

New strategy 'led to bloodbath'

CT 16/4/98 (252)

DURBAN: After an ANC attack on one of its rallies, the IFP decided to attack all ANC supporters indiscriminately, according to a former Caprivi-trained hit-squad member.

A CHANGE in strategy by the IFP leadership in dealing with ANC opposition led to a prolonged bloodbath in the townships around northern KwaZulu-Natal's industrial areas, the Truth and Reconciliation Commission heard yesterday.

The TRC's amnesty committee sitting in Richards Bay heard how the tension between the Inkatha Freedom Party and the African National Congress exploded in 1992, leaving scores of people dead in a spate of killings.

The committee, which is hearing an amnesty application by seven members of an IFP hit-squad trained in Caprivi in then-South West Africa, was told how the tension had erupted into violence after an IFP rally in February 1992. One of the members of the hit-

squad, Mr Brian Gcina Mkhize, 35, told the committee he was approached by the IFP in 1991 to do something about the conflict in Esikhawini township, which lies between Eshowe, Empangeni and the Richards Bay industrial area.

He said orders for the formation of the hit-squad were received from high-ranking officers in the KwaZulu Police and the top leadership structure of the IFP.

He said his squad had worked undercover and targeted what he called known ANC troublemakers in the area.

However, in February the IFP changed its strategy and began ordering attacks on all ANC supporting areas at random.

He said the change came after ANC gunmen had opened fire on people attending an IFP rally

Many IFP supporters were injured in the shooting and the stampede that followed.

The disruption infuriated Prince Gideon Zulu, who was one of the main speakers. Zulu is presently MEC for welfare in the KwaZulu-Natal government.

Mkhize described his role in carrying out a string of attacks on ANC supporting areas during which people were shot at bus stops, in shebeens, in their homes or as they walked down the street.

In one incident a few weeks after the IFP rally he threw a handgrenade at a bus.

Mkhize said when the bus came to a halt and passengers tried to flee, he and other members of his squad fired at them and fled.

Finally, in late 1992, three members of Mkhize's hit-squad were arrested for the attack on ANC leader Mr Bheki Ntuli's house.

Mkhize said that during their application for bail, local ANC leader Mr Wills Mchunu testified in court that bail should not be granted because, since the arrest of the three, Esikhawini township had been calm.

Mkhize said he noticed that this was true, but the local IFP leadership then decided that chaos should be created in the township to dispel the impression that calm had returned.

He said other members of his squad went into an ANC area and fired at random.

This evidence was successfully used in the bail application.

Mkhize was finally arrested and convicted of two murders and a kidnapping. He is presently serving a 52-year sentence in the Westville prison.

The hearing continues today — Sapa



PW subpoenaed to (252) explain secret documents

SPAW 16/4/98
BY ROBERT BRAND

George - The Truth and Reconciliation Commission subpoenaed former State President P W Botha to explain secret government documents which appeared to contain orders to kill political opponents, TRC executive secretary Paul van Zyl told the George Magistrates' Court yesterday.

Van Zyl, the first State witness in Botha's trial, was explaining why the TRC thought it necessary to subpoena Botha, even though he had agreed to submit written answers to the commission's questions.

Botha is facing charges of contempt of commission. He was subpoenaed to give evidence at a hearing on the activities of the State Security Council (SSC) in December last year, but ignored the subpoena.

Van Zyl said the commission had furnished Botha with a list of questions in January 1997, but had not received the written answers by August.

In the meantime, SSC minutes obtained from the State Archives had brought to light new evidence that Botha may have been indirectly involved in human rights

violations. Questions about these documents had not been included in the original list sent to Botha.

The commission decided in August 1997 to subpoena Botha, who was ex officio chairman of the SSC for 12 years.

Botha, who was then recovering from hip surgery, asked to be excused on medical grounds. The request was granted, and a second subpoena was issued two months later.

This time, Botha refused to attend the hearing, saying there had been an agreement between him and TRC chairman Archbishop Desmond Tutu that he would not be called to appear. Van Zyl denied that such an agreement existed.

The SSC minutes obtained by the TRC contained several references to "eliminating", "neutralising" and "destroying" government opponents, Van Zyl said. Several policemen had said in amnesty applications that they had interpreted these words to mean "kill".

Van Zyl said the commission had prima facie evidence that Botha had "created a climate" in which human rights violations could be committed.



Defiant PW vows to fight to the end

Star 16/4/98 (252)

Trial of former president starts after failure of last-ditch attempts to persuade him to testify before TRC

By **ROBERT BRAND**
George

The trial of P W Botha on charges of ignoring a Truth and Reconciliation Commission subpoena finally got under way yesterday, after exhaustive efforts to keep the former state president out of court had failed.

Botha, defying the advice of his lawyers, TRC chairman Archbishop Desmond Tutu and President Mandela, rejected a deal that would see the charges against him dropped in return for his appearing before the TRC.

With the odds now heavily against him, Botha told reporters he would fight to the last. "Even if they destroy me, they cannot destroy my soul and my convictions."

In a short interview with The Star earlier, he said "I will not appear before the TRC. I would be prepared to have a discussion with Mr Mandela and Dr Tutu if they drop the charges."

At the request of Botha's lawyers, Tutu did meet Botha before the start of the trial yesterday - but only in a last-ditch attempt to persuade him to agree to testify before the TRC.

On Tuesday, Mandela phoned Botha and offered to accompany him to the TRC hearing if he agreed to testify, but to no avail.

"We have hit a brick wall," Tutu said. "We are very deeply

distressed because we were within sight of an agreement."

On Tuesday night, Botha's lawyers had already drawn up a press statement explaining the terms of the deal, Tutu said.

"We went to bed thinking a deal was on the cards, but this morning Botha vetoed all the discussions."

Botha had continued insisting on a meeting with Tutu and Mandela instead of testifying before the TRC. Tutu said the TRC could not accept this as the law required him to appear before a properly constituted panel.

Odds now heavily against him

Tutu said the TRC had been prepared to treat Botha with kid gloves. "We only wanted to ask him a few questions. It would have been over in a few hours."

Instead, Botha chose the ordeal of a drawn-out legal battle that could not only see him sentenced to two years' jail or a R20 000 fine, but also holds out the prospect of financial ruin.

The State was prepared to pay Botha's legal costs if he appeared before the commission, but it will not pay his costs for a criminal trial and possible subsequent appeals.

Legal sources estimate the trial could be costing Botha up to R20 000 a day.

Sources said Botha is banking on support from conservative Afrikaners and has received hundreds of faxed messages of support. But the support has not yet translated into money.

Tutu said legal representatives for the TRC and Botha had managed to clear up all disagreements about the proposed deal. The only remaining obstacle was Botha himself. "I think fundamentally it stuck in his gullet to have to appear before the commission at all."

Asked about Botha's mental state, Tutu refused to comment.

Two Cape Town neurologists who treated Botha after his stroke in 1989 have submitted affidavits to the TRC saying he is not fit to stand trial because the stroke had severely affected his reasoning. Botha, however, said through his lawyers he was fit to stand trial.

A source close to the negotiations told The Star that Botha's family was divided about his defiant stance. His two daughters had wanted him to agree to the deal, but his son Bassouw had advised him to stand firm.

Botha's fiancée, ReINETTE Te Water Naudé, has not been present in the courtroom.

► Secret documents

Page 3



"They can't destroy my soul" ... P W Botha leaves the George Magistrate's Court yesterday.

INSIDE

Reflecting on a time of madness

Esikhawini was calm and peaceful as the gruesome details of killings in 1992 in this KwaZulu Natal township started to unfold in front of the TRC

(298) Star 16/4/98

By SIMON ZWANE

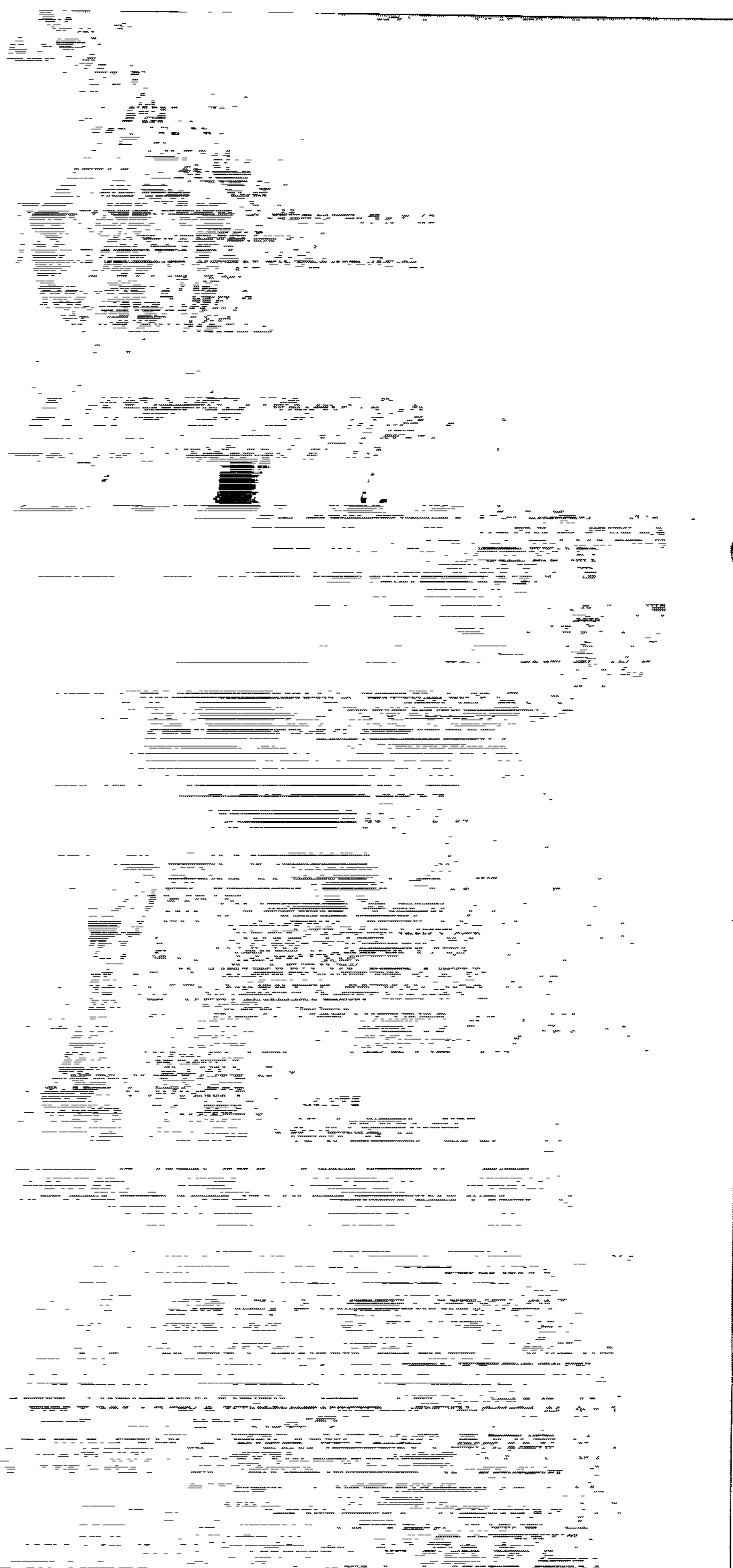
It is Monday August 6 1992 in Esikhawini township in northern KwaZulu Natal. A convoy escorting top ANC leaders - including former ANC secretary-general Cyril Ramaphosa, Chris Hani and Jay Naidoo - is leaving the area after a brief fact-finding mission following the massacre of 11 people the previous night.

As the motorcade drives out, a lone, distraught and youthful voice cries out "Now you are going and tonight we will die."

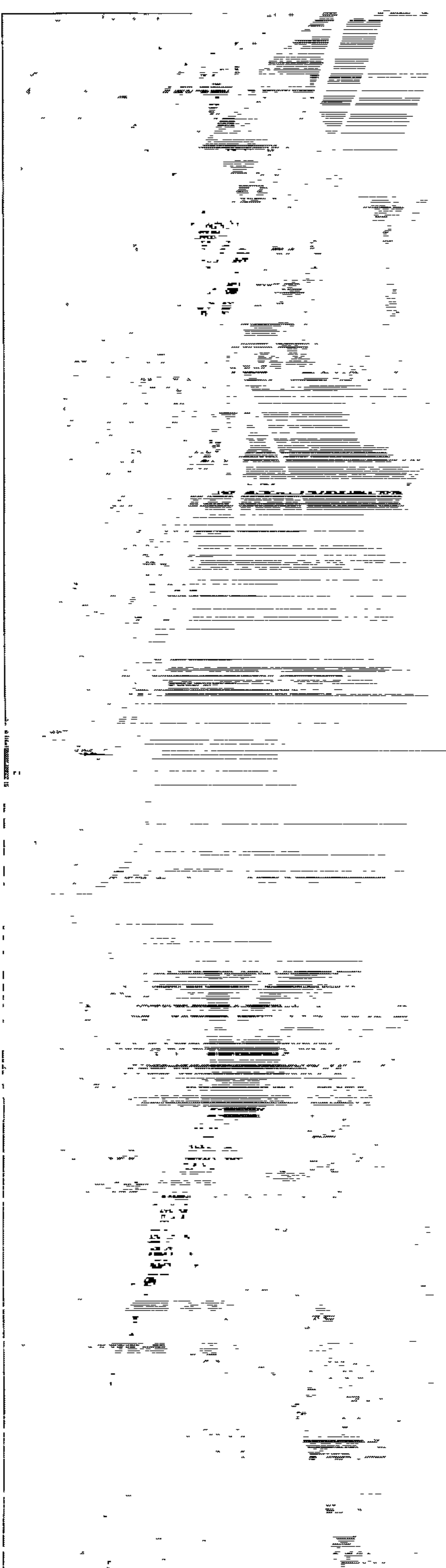
These words echoed the fear with which the residents of this township lived following a spate of killings which they suspected were encouraged and carried out by members of the KwaZulu Police (KZP).

The Ramaphosa delegation also tasted KZP hostility towards the ANC when they were confronted by three vanloads of policemen during their visit.

One of the policemen pointed a gun at a group of ANC supporters



Killing fields ... KwaZulu Natal communities were torn apart and thousands were killed in violence between the IFP and ANC in the Eighties and early Nineties. Now the truth is beginning to emerge



leaders and threatened to shoot them. But he left without carrying out the threat.

The township was very calm and peaceful last week, as the Truth and Reconciliation Commission's amnesty committee began listening to evidence from some of the people involved in these killings.

Young children were again playing blissfully in the streets. The blood which once stained these streets was gone.

The township showed few scars of the devastation it went through. Deserted and gutted houses could be seen here and there as sad reminders of the complete madness that once reigned supreme in this place, not only in this area but the province as a whole.

The overall picture was one of an area at peace with itself and a people determined to carry on with their lives against the odds.

"I can now keep my front door open even in the middle of the night without any fear," said a woman at J1 section, where the massacre took place.

At house 147, a shebeen where four people were killed on that bloody day, it was just business as usual.

Patrons were enjoying their drinks in the warm sub-tropical weather as the queen of the house, Mambuyisa Simeleane, reflected on the events of that fateful day when she narrowly escaped death.

A group of balaclava-clad men burst into her house at 7:30pm and started to open fire randomly.

They were moving into the bedrooms when her brother-in-law, Lindukosi Dube, suddenly jumped and grabbed the barrel of a rifle carried by one of the assailants.

A scuffle ensued and the assailants subsequently ran out leaving a pool of blood in the house.

Daluxolo Luthuli, a former commander of the 207 Caprivi-trained Inkatha Freedom Party hit squads, last week spoke out on how the reign of terror in this township was

planned.

He said senior IFP leader and the present provincial Welfare MEC Prince Gideon Zulu, the township's former mayor B B Binyela, local IFP leader Rosebud Mbuyazi, former district commissioner Como Mzimela, Chief Khayelithe Mathaba and other leaders met at the local community hall in the early 90s to discuss methods to "prevent the ANC from becoming more powerful".

"It was decided that certain Caprivians (members of the hit squad) who lived and worked in the

The KZP appeared to be approaching the case as they would investigate the killing of a few cats and dogs.

Esikhawini area should be activated so that ANC leaders and active members of the ANC could be killed," Luthuli said.

A certain Major Langeni was appointed local commander of the hit

squad which was to fall under the control of Binyela and Mbuyazi.

The two were to identify targets, supply weapons and issue instructions. From that day Esikhawini never

knew peace as the KZP wreaked havoc with the lives of their political opponents and innocent people in full knowledge that their crimes would be covered up.

Mzimela, the district commissioner who allegedly sat in the local planning committee of the hit squads, tried to perpetrate this cover-up when he met Ramaphosa and his team on that chilly August Monday.

Although he admitted that shot-gun and rifle shells that were found on the scene of the killing were of the type used by the KZP and

promised that an investigation had been launched, nothing came of that promise until today.

Ramaphosa was left with one distinct impression of the man and the investigation he claimed to have launched.

"The KZP appeared to be approaching the case as they would investigate the killing of a few cats and dogs," he said.

Moment of truth dawns for Romeo, a hit-squad trigger man

By SIMON ZWANE

Romeo Mbanbo is the type of man that many women would like to be seen with. He is tall, muscular, handsome and has a penchant for expensive Italian clothes.

But he is not the perfect gentleman that grooming makes him out to be. He is a convicted murderer serving a long jail sentence for the murder of ANC members in Esikhawini.

Because of his support for the IFP and his association with Genia Mkhize, an IFP hit man trained by the former government's military intelligence in the Caprivi Strip in Namibia, Mbanbo was turned into a killing machine oiled by the blood of the people he had pledged to serve and protect.

As a member of the Esikhawini-based KwaZulu police hit squad, Mbanbo killed more than 100 people in the conflict between the ANC and the IFP.

This week, at the TRC's amnesty hearing in Richards Bay, he will come face to face with the widows and orphans of the people he murdered as well as the survivors of the reign of terror he and his colleagues unleashed on this sleepy township.

Mbanbo, Mkhize and Zwelli Dlamini are seeking amnesty for murders that took place in this township in the early 1990s.

Mbanbo has admitted that he planned the massacre of 11 people killed when balaclava-clad men went on a rampage shooting randomly in the ANC-dominated J1 Section on a Sunday evening on August 5 1992.

Among the people who will be listening to Mbanbo's testimony with keen interest is 7-year-old, Xolile Khanayile.

Xolile was on her granny Zethu Gumbi's lap when five men opened fire on them wounding her in the leg and seriously injuring Gumbi, then an ANC regional treasurer.

Gumbi, who is now an ANC ward councillor, spent many months recovering in hospital. When she was finally discharged, her appendix had been removed as it was seriously damaged.

A twinge of bitterness comes into her soft voice when she recalls the events of that day when she was nearly killed.

"I could consider forgiving them (Mbanbo and his hit squad) if they tell the whole truth but I am going to open a case against those who issued the order," she said.

"Today I have no appendix because of that order."

Gumbi said she was shocked when she found out that Mbanbo had applied for amnesty for attempting to murder her.

Mbanbo visited her while at the intensive care unit at Empanjeni hospital on a pretext that he was investigating her attack and needed a statement from her.

The statement was not given and he left.

"He could so easily have finished me off. I don't know what stopped him," Gumbi said.

Mbanbo was cagey when The Star confronted him with this information last week.

He admitted that he visited Gumbi as an investigating officer in the case but was reluctant to say who had assigned him to the case.

But it will not be easy for him to dodge questions during the hearing.

His freedom and reconciliation with the community he was once a part of now depend on the answers he will give to these thorny questions.

Govt gives commission green light

By Joe Mkhlela

THE Government will not interfere in a matter in which 14 white KwaZulu-Natal judges are blocking the appointment of a black judge to a position of deputy judge-president of the province

Two weeks ago white judges caused a political storm by openly opposing the appointment of a black candidate, Judge Vuka Tshabalala, to become the first black judge-president of the province

The reaction by white judges towards the candidacy of Tshabalala prompted KwaZulu-Natal Premier Ben Ngubane to lambast their behaviour as "unbecoming"

"I hope the judges will withdraw their petition. They should have left the commission to judge and not pre-empt it," Ngubane said

Spokesman for the Ministry of Justice Mr Paul Setsetse told *Sowetan* this week that Justice Minister Dullah Omar believed that "it is appropriate that the Judicial Service Commission deals with the matter"

"The matter is still before the com-

mission and the minister thinks that it is appropriate for the commission to deal with the issue," Setsetse said

He said the ministry had created the commission in order to strengthen the independence of the judiciary, "while at the same time addressing the problem of representivity"

"The democratic Government has moved away from political interference in the functioning of the judiciary

"The commission is a representative body and must deal with the matter," he said

A fortnight ago, the commission deadlocked in choosing a new deputy judge-president for KwaZulu-Natal

Seven black members of the commission voted for Tshabalala while the same number of white votes went to Judge Willem Booysen

Booyesen is a former member of the Broederbond, an exclusive inner circle of the Afrikaner establishment

The furore around the candidacy of Tshabalala has irked a number of institutions that have charged that "we do not believe many white judges are for the transformation process"

Sowetan 16/4/98

16/4/98 (252)

Secretary # 10/11

TRC cannot destroy my soul, says PW

FORMER president PW Botha repeated yesterday that he would not appear before the Truth and Reconciliation Commission (TRC)

He said he is not running away from the TRC. He was prepared to meet TRC chairman Archbishop Desmond Tutu and President Nelson Mandela to discuss matters.

Shortly before being moved away from the press by his lawyer Mr Ernst Penzhorn, a defendant Botha said "Even if they destroy me they cannot destroy my soul and my convictions"

Meanwhile, the George Regional Court was told that the TRC wanted to question Botha in person about the State Security Council (SSC), which may have authorised the killing of government opponents

TRC executive secretary Mr Paul van Zyl testified that it had originally been agreed that Botha could answer questions from the TRC in writing. However, the TRC later accessed minutes of SSC meetings. The commission wanted to question Botha about these minutes

While the TRC had not prejudged the issue, the minutes could indicate the SSC had authorised gross human rights violations

Botha chaired the SSC, which was the highest decision-making body on security policy matters, from 1978 to 1989

Van Zyl said the TRC also wanted to quiz Botha on allegations that he had authorised the bombing of Khotso House. Former minister of

police Mr Adriaan Vlok said in his amnesty application that he had understood Botha to have authorised the bombing, and congratulated him after it had taken place

Botha vehemently denied this

Earlier, Tutu told journalists that Botha had pulled the plug at the last minute on an agreement with the commission

Speaking shortly after Botha's trial finally got under way, Tutu said "I'm very deeply distressed because yesterday we were (close to) an agreement"

"We went to bed thinking a deal was on the cards. It has not turned out that way at all. This morning our counsel said that Mr Botha basically broke off any discussions, and the case is going ahead"

Tutu said he had since spoken to Botha, who was adamant he was prepared to talk only to Tutu himself, or Mandela, and not to the TRC

He said a meeting with himself or Mandela would not meet the requirements of the Act governing the TRC. The TRC was a statutory body and had to act within the confines of the legislation that brought it into existence

Tutu said the TRC was still ready to talk to Botha about a compromise, although this was more difficult now that the case was under way

"Our final position would still be that our door is open. It will remain open for keeps, as it were" - Sapa

Mbeki 'should have raised human rights'

BD 16/4/98

(252)

AMNESTY International said yesterday it was disappointed with Deputy President Thabo Mbeki's decision not to raise human rights issues with China during his official visit to Beijing.

Sapa reports that Amnesty International SA chairman Samkelo Mokhele said the reason given by SA officials was not convincing. "The organisation notes that such a decision seemed to be in contrast to previous decisions by the government to raise human rights issues with Nigerian and Indonesian government officials, even though convenience and international trends seemed to hold mere condemnations and expressions of concern adequate."

It said government had missed an

ideal opportunity to entrench human rights as a cornerstone of its foreign policy. It urged government to use its "moral high ground" to raise the plight of victims of human rights abuses worldwide at every opportunity.

Stephen Laufer reports from Seoul that Mbeki clinched an agreement yesterday for SA and South Korea to explore a science and technology accord. However, the two governments sent mixed signals on its aim and scope, particularly relating to defence.

The announcement came after Mbeki met President Kim Dae-Jung and acting Prime Minister Kim Jeong-Pil.

Asked about potential pitfalls under SA law awaiting any proposal for mil-

itary co-operation because of the armed standoff between North Korea and South Korea, Mbeki underlined the civilian commercial possibilities arising out of the accord.

A detailed analysis of SA's high technology potential by the Korean Institute of Science and Technology had made very favourable recommendations to the Korean government. Mbeki said the proposed framework agreement was a prerequisite under South Korean law for any technology transfer with potential military implications.

However, South Korea's director-general for African and Middle East-

Continued on Page 2

Mbeki (252)

Continued from Page 1

ern affairs, Song Young-Oh, took a broader view of the agreement, which he said had already passed all the legal and political hurdles in South Korea. Seoul was "looking for every type of co-operation" under the accord, including in the military field, and South Korea was "ready to sign". It was now up to Pretoria to process the text, which had already been forwarded to SA.

Song said his government was aware of SA's defence capacity, and had received a proposal from Defence

Minister Joe Modise via Trade and Industry Minister Alec Erwin late last year for co-operation between the defence industries of the two countries.

An SA embassy source said Seoul appeared less interested in buying SA weapons than in acquiring the research, development, and skills associated with such systems as the Rooivalk attack helicopter.

Mbeki said he and South Korea's leaders had agreed to put significant effort into strengthening bilateral mechanisms, particularly to identify trade and investment opportunities.

Mbeki had passed on an invitation from President Nelson Mandela for President Kim Dae-Jung to visit SA.

charges

Botha spurns commission's in-camera hearing to face criminal

Taryn Lamberti

GEORGE — If former state president PW Botha had agreed to appear before the truth commission behind closed doors, he could have avoided answering allegations of gross human rights violations in public.

Instead, Botha dismissed yesterday the commission's offer of an in-camera hearing and opted to face criminal charges for ignoring the commission's subpoena in December last year. Botha said he was not prepared to

appear before an in-camera hearing "under any circumstances".

During the first day of Botha's prosecution yesterday, commission executive secretary Paul van Zyl outlined the reasons for Botha's subpoena. He said clarity was needed on a number of serious allegations involving Botha and the now defunct state security council, of which Botha was chairman from 1978 to 1989.

After a last-minute attempt to convince Botha to appear before the commission failed yesterday, commission

chairman Archbishop Desmond Tutu said he was disappointed the case against Botha had gone to trial. "We would have dealt courteously and carefully with him and I am quite sad."

Van Zyl outlined correspondence between Botha and Tutu from December 1996, involving Tutu's attempt to elicit co-operation from Botha. Most of the letters read out in court were of a friendly nature.

Van Zyl said clarity was needed on issues which could not be adequately dealt with via correspondence. "We

believed matters of such importance would be best dealt with in public."

Last May the commission gained access to minutes of state security council meetings. "In the minutes it seemed that authorisation had been given for gross human rights violation. Van Zyl said it seemed that the state security council had authorised the elimination or killing of political opponents."

Reference was made to the "elimination of enemy leaders", and instructions to "neutralise" African National Congress leadership were given. "These

had been interpreted as orders to kill

During his amnesty application, former police commissioner Johan van der Merwe said he had received orders from former law and order minister Adriaan Vlok in 1988 to bomb SA Council of Churches head office. Khotso House Vlok said he had received his orders directly from Botha.

Botha had said the allegations were incorrect and based on unsubstantiated hearsay evidence

Picture: Page 3

Hackles set to rise at animal rights summit

New law on the cards

CLIVE SAWYER
POLITICAL CORRESPONDENT

ARG (257)
16/4/98

A major summit aimed at reforming all animal welfare legislation is to be held next month.

Experiments on animals and religious slaughter are among items on the agenda for the summit, which is intended to lead to a new Animal Welfare Bill.

An open invitation has been issued to the summit, which has been convened by the Department of Agriculture Pretoria on May 12, and consultations in the run-up to the meeting have included more than 20 lobby groups that tend to make each others' hackles rise

Those consulted have included the National Council of the Society for the Prevention of Cruelty to Animals, the Animal Anti-Cruelty League, South Africans for the Abolition of Vivisection and the Animals Group Alliance

From the other side of the fence, there have been the SA Association of Laboratory Animal Scientists, the Medical Research Council and the SA National Defence Force, which have admitted using animals in experiments

Also consulted were the Red Meat Producers Association, the Emergent Red Meat Producers Association, the

Poultry Association, the SA Veterinary Association, the SA Society for Animal Science and the National African Farmers Union

The theme of the workshop is to be "animal welfare in a diverse society"

The agenda includes the transport of animals by road, air and sea, ceremonial and religious slaughter, animal experimentation, performing animals, training and registration of animal welfare inspectors, and registration of animal welfare organisation

The workshop will discuss setting up a National Animal Welfare Committee to advise the Department of Agriculture

The department said it would be impossible to finalise a national animal welfare code in one day "We do, however, believe the workshop will lead to the establishment of a number of committees that will be able to draft codes for various critical sectors"

This would lead to the drafting of a new Animal Welfare Bill. It was hoped this legislation would recognise the diversity of social, cultural and economic activities, as well as their relative and often irreplaceable importance to various sectors. The new law would be aimed at respecting the rights of wild and domestic animals

PW in hot seat as TRC fight goes to trial

We need his testimony on abuses, commission official tells court

JOHN YELD
ON THE TRUTH COMMISSION

George - The claim that P W Botha congratulated police for blowing up Khoiso House in 1988 was one of many reasons the Truth Commission wanted the former state president to answer questions personally

Commission executive secretary Paul van Zyl referred to the claim by former law and order minister Adriaan Vlok when he gave evidence at Mr Botha's trial, which finally got under way in the regional court here yesterday

Mr Botha has pleaded not guilty to ignoring a subpoena to appear at a commission hearing in December, alternatively hounding the commission in the execution of his duties

Mr Van Zyl's evidence yesterday and today included details of the commission's many communications with Mr Botha about questions it wanted answered - particularly relating to Mr Botha's chairmanship of the State Security Council

For most of the more than three hours that Mr Van Zyl testified, Mr Botha sat impassively on his chair with his blue cushion next to the dock. He occasionally leaned forward to talk to his legal team, and during a brief adjournment he spoke to the journalists, saying "Even if they destroy me, they cannot destroy my soul - and my conviction," he said.

Mr Van Zyl said there was no evidence Mr Botha himself had committed gross human rights violations. But he then proceeded to list incidents and references about which the commission wanted to question Mr Botha. They included Mr Vlok's



ROY WINGLER



Genette fingerprint: PW Botha and his daughter share a gesture outside court in George yesterday

Botha 'still very bright after stroke'

CAROL CAMPBELL
SHEVA WAINER

Former state president P W Botha still has a razor-sharp mind in spite of his stroke nine years ago, but fires easily.

This is the view of close friends and colleagues, who say he is still in full control of his mental faculties and a "very bright man".

But some old cabinet colleagues say they "prefer not to comment" on their former leader.

Mr Botha is the centre of a legal storm after ignoring a subpoena to testify before the Truth Commission.

There has been speculation that his brain was irreparably damaged when he had a stroke in 1989 and that pressing him to give evidence could

induce another.

Jack Vryers, a close friend of Mr Botha and his press spokesman at the time of the stroke, was at his side when he was being treated in hospital. Mr Vryers said Mr Botha was heavily medicated but still aware of what was going on around him.

"I watched him sign the papers which made Chris Heunis the acting president of South Africa while he was sick. He knew exactly what he was doing," Mr Vryers said. "There is nothing wrong with him. His mind is as sharp as a Mindora blade."

Mr Heunis, who now runs his own law firm in Somerset West, said he "preferred to forget" his time in politics and did not want to talk about Mr Botha's mental state.

Former finance minister Barend

du Plessis said "Yes, I was one of those who asked Mr Botha to step down as president because of his ill health. I have nothing else to say about it," he said.

Roelf Meyer, a co-leader of the United Democratic Movement who was a deputy minister when Mr Botha was president, said "My impression of Mr Botha after his stroke is that there was no direct damage to his mind."

Retired Burger political correspondent Alf Rles, who was the first journalist to interview Mr Botha after his stroke, said that while he was "obviously not well" he was still "quite sharp".

"He gave me an exclusive interview and after about two hours I could see he was tired."

Botha 'was given security forces report'

From page 1

armed forces hearing last year. "Major Williamson had told the hearing he had found "no difference of opinion" about the views he had expressed among his colleagues in the security forces.

Although the report had been circulated to an elite list of politicians and securocrats in Mr Botha's government - including Mr Botha him-

self - he had not been challenged by anyone.

Mr Van Zyl said this document was one of many about which the commission had wanted to question Mr Botha personally, because they could have contributed to situations in which gross human rights violations had occurred.

"We wanted to ask whether Mr Botha received this, and if he had, what his views were, and if a group of people of this nature and

Connected: TRC chairman Desmond Tutu and a bodyguard after the talks failed yesterday

claim in his amnesty application for his part in blowing up Khoiso House that Mr Botha had ordered him to destroy the building, then headquarter of the SA Council of Churches.

Mr Vlok stated that after the building had been rendered "unworkable" by a police team headed by Vlakplaat commander Eugene de Kock, Mr

Botha had congratulated him and the police for the operation during a State Security Council meeting.

Mr Van Zyl said Mr Botha's version of the incident - essentially a denial of any wrongdoing - was "fundamentally different" from Mr Vlok's version and needed to be tested during oral evidence.

Botha had congratulated him and the police for the operation during a State Security Council meeting.

Mr Van Zyl said Mr Botha's version of the incident - essentially a denial of any wrongdoing - was "fundamentally different" from Mr Vlok's version and needed to be tested during oral evidence.

The case is continuing, but is expected to be postponed later today after Mr Van Zyl's evidence-in-chief has been completed.

It may only resume after a delay of several months because of lawyers' commitments.

IFP Minister promised us freedom, TRC hears

CORRECTIONAL SERVICES attacks he committed during the early 1990s. Minister Siphosizwe Mzimela promised to arrange to have convicted Inkatha Freedom Party hit squad murderers freed from prison, the Truth and Reconciliation Commission heard in Richards Bay yesterday.

Brian Mkhize (35), who commanded a hit squad that conducted a wave of terror in the Esikhawini area in northern KwaZulu-Natal in 1992, told the TRC's amnesty committee Mzimela visited him in Westville Prison in 1995.

Mkhize is serving a 52-year sentence for two murders for which he was arrested in August 1992. He is applying for amnesty for a range of

attacks he committed during the early 1990s.

He has admitted undergoing military training in Caprivi and taking part in 56 incidents of murder and violence throughout the province.

He told the amnesty committee that Mzimela - also a senior IFP official at the time - visited him and two other members of the hit squad, Romeo Mbambo and Israel Hlongwane.

He said during the visit, Mzimela asked the white prison officers to leave the room because he wished to discuss "family matters" with the prisoners.

He said Mzimela then explained

that there would be problems with their applications for amnesty because the IFP did not recognise the TRC. Mzimela told them the IFP had not been part of creating the TRC and regarded it as the African National Congress's political pawn.

"Mzimela told us applications for amnesty by IFP members would place the party in a difficult position," Mkhize said.

Mzimela then promised Mkhize and the other two that something would have to be done about their release and he left.

"That is the last we have seen of him," Mkhize said.

The hearing continues - Sapa

PW trial: list made public

A LIST of high-profile opposition politicians and activists that the State Security Council (SSC) considered a risk to the government in July 1986 was made public in the George Regional Court yesterday.

This was during the trial of former state president Mr PW Botha, who is accused of defying a Truth and Reconciliation Commission (TRC) subpoena to appear at a hearing to answer questions about the SSC.

The list was circulated to people including former defence force chief General Jannie Geldenhuys and former head of the National Intelligence Services Dr Neil Barnard.

It suggested that the SSC ensured that Mrs Winnie Madikizela-Mandela, then the wife of jailed Nelson Mandela, should be "restrict-

ed" but not detained, and that her funds should be cut off.

United Democratic Front (UDF) leader Reverend Allan Boesak's passport should be withdrawn and he should also be restricted but not detained, the document said.

Mr Dullah Omar, then a UDF stalwart and now Justice Minister, should be investigated with a view to his arrest and stricter restrictions should be placed on him.

The document recommended that Archbishop Desmond Tutu and Dr Alex Boraine, now respectively chairman and deputy chairman of the TRC, Mr Cyril Ramaphosa, who was then general secretary of the National Union of Mineworkers (NUM), Catholic leader Bishop Desmond Hurley and Dr Frederick van Zyl

Slabbert, then an opposition parliamentarian, should be dealt with by Stratcom, the dirty tricks unit.

Further investigations were recommended against Ms Gill Marcus, now Deputy Finance Minister, labour relations expert Mr Charles Nupen, Ms Mary Burton, who was then active in the Black Sash and is now a TRC commissioner, NUM president Mr James Motlatsi, Mr Sydney Mufamadi, then assistant general secretary of the Congress of South African Trade Unions, banned activist Helen Joseph, and lawyers Geoff Budlender, Halton Cheadle, Fink Haysom, Sydney Kentridge, Arthur Chaskalson and George Bizos.

The trial has been postponed to June 1 - Sapa.

Bitter Botha storms out of court

GEORGE: Former South African president Mr P W Botha stormed out of court yesterday after his trial on charges of ignoring a subpoena to appear before the Truth and Reconciliation Commission was postponed to June 1

The postponement was granted against the wishes of Botha, 82, whose lawyer read out a statement from him saying that the delay was "totally unacceptable because it will result in untested allegations being sent out into the world"

The TRC wants to question him over claims that his government knowingly tortured and killed anti-apartheid activists

Before the postponement, Botha was overheard telling his legal team that he thought the case should proceed

"This case was set down for four days. Come, let's go on," Botha said

When the case was adjourned

over his objections, a visibly angry Botha stood up and told his lawyers "You know I'm the one standing in front of this court with you." His advocate Lappe Laubscher replied "Well I'm the one who is trying to help you", but Botha stormed off nevertheless.

A visibly angry Botha, who was known and feared while in office as the "Groot Krokodil", lambasted the court and the government when talking to journalists at his home in Wilderness

"They want to destroy me and to destroy the image of my people," he said

"Documents produced in court were not made available to my lawyers. I am deeply shocked because this country is badly managed, is badly governed. This country is in confusion."

The case was originally scheduled to end today, but delays

ET 17/4/98
resulting from last-minute talks between Botha and the truth commission resulted in the court running out of time

Magistrate Victor Lugaju said the case had to be postponed as court officials and members of the legal team would not be available next week.

"We know that justice delayed is justice denied, but in this instance I have no other option but to postpone the case," said Lugaju

Mr Ernst Penzhorn, one of Botha's lawyers, told reporters the ex-president was unhappy over the postponement even though he understood the failed talks with the commission over a possible compromise to spare him a court trial had taken up time

"Mr Botha would have preferred that cross-examination could have taken place so that the other side of the story, if

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there is one, could also come out," he said

Testimony yesterday centred around the activities of the State Security Council — an inner cabinet set up by Botha to manage the state's fight against black liberation movements during the 1980s

Mr Paul van Zyl, the executive secretary of the truth commission, said it was suspected that Botha knew about or even sanctioned human rights violations carried out by the security forces during his rule

Van Zyl presented a list of influential people that had been targeted by Botha's council

The list of people seen as a risk to Botha's government included names such as Winnie Madikizela-Mandela and Nobel peace laureate Archbishop Desmond Tutu, who is chairman of the TRC — Reuter

● Picture on Page 3

Hit-squad leader 'exploited by politicians'

RICHARDS BAY: The leader of an Inkatha Freedom Party hit-squad that caused havoc in northern KwaZulu-Natal in 1992, warned young people not to let politicians exploit them in the way they had exploited him.

Brian Gcina Mkhize, 33, has admitted leading a Caprivi-trained hit-squad in a reign of terror in ANC supporting areas around Empangeni in 1992.

He and six other members of the hit-squad are applying for amnesty for 56 incidents of violence in the late 1980s and early 1990s.

The other six applicants are Daluxolo Luthuli, Romeo Mabuso Mfambu, Israel Nyoni Hlongwane, Bhekisisa Alex Khumalo, David Zweli Dlamini and Bertwell Bheki Ndhlovu.

Mkhize told the amnesty committee he had made the worst mis-

take of his life when he committed himself to fighting for the IFP.

"The youth should not fall into the trap of being manipulated and exploited by people of authority in their community," Mkhize said.

He appealed to the community to forgive him.

Mkhize also spoke of the bitterness he felt towards the IFP, which had abandoned him after using him and others to do its dirty work.

He had seen his involvement with the IFP as part of the struggle against oppression, but now realised he could have used his energy more profitably.

He felt ashamed when he thought of his own role in the struggle.

Mkhize said he felt insulted by IFP leadership claims that he and other Caprivi trainees were

engaged in their own criminal activities.

He had done what he did for the party, and now the leadership refused to acknowledge him.

"But God knows, the truth will surface," he said.

Mkhize said he was placing his life in danger by speaking out, but would continue to do so in the hope that that whole matter would eventually be investigated.

He said he hoped to clear his name and did not wish to be seen as a criminal by the community.

He was co-operating with the authorities to expose all clandestine operations in the province during the years of conflict.

He had assisted the Goldstone Commission investigating hit-

squad activity and had worked with the investigative task unit probing political crime in the province.

Mkhize, who is serving a life sentence in Westville prison for two murders, said he was also working to bring about reconciliation between IFP and ANC combatants who were now in prison.

"We are committed to bringing about reconciliation with the ANC prisoners against whom we fought in the past.

"We need to become human again."

It was pointless for politicians to talk about reconciliation while the foot soldiers remained in a state of conflict.

Mkhize said he had asked an ANC leader from the Esikhawini

area, Mr Willes Mchunu, to address IFP and ANC prisoners at the prison.

Mchunu, who attended yesterday's proceedings, said afterwards that he was willing to participate in the process and believed in a joint approach to bringing about reconciliation and rehabilitation.

Mchunu, who survived numerous attempts on his life during the turbulent years in Esikhawini, said there was a great need to move away from conflict and confrontation, towards co-operation.

Earlier Mkhize told the hearing that Correctional Services Minister Sipo Mzimela, who held office in the IFP at the time, had visited him in prison and offered to help get him released.

He said Mzimela said there were problems with his application for amnesty because the IFP did not recognise the TRC.

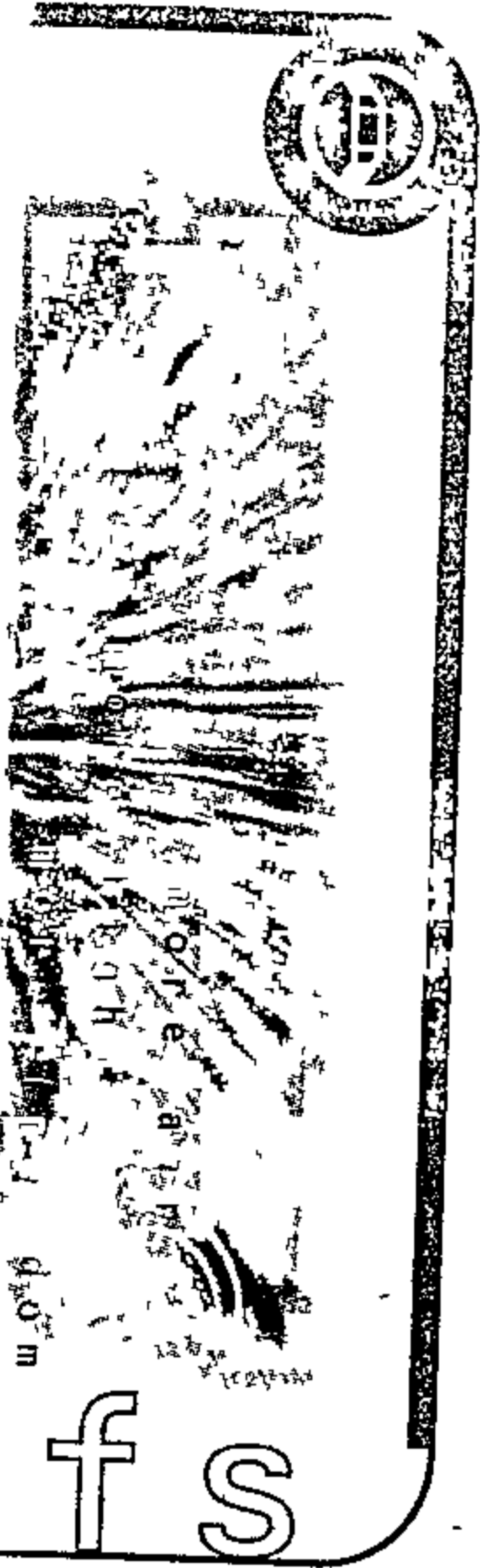
However, he promised he would find another way to have Mkhize and other IFP hitmen released.

Mkhize said he had heard nothing more from Mzimela and was still serving his sentence.

The hearing continues here today. — Sapa



SEX PROBLEMS



PW furious as trial is postponed until June

By ROBERT BRAND

George -- A fuming PW Botha was led from the George Magistrates' Court yesterday after protesting strongly against the postponement of his trial

Botha shouted and gesticulated at his legal representative and the prosecutor inside the courtroom after a break in proceedings, during which they discussed a postponement date

"It was set down for four days," Botha said loudly "Let it go on, and let it go on!"

Botha's lawyers calmed him down before magistrate Victor Lugaju entered the court to grant a postponement to June 1. But after Lugaju had formally adjourned the day's proceedings, Botha continued to express his disapproval

"I'm the one standing in court, not you," he said angrily

to one of his lawyers, advocate Piet de Jager

"And I'm the one who is trying to help you," De Jager answered tersely, taking Botha by the arm and attempting to lead him out of the courtroom

On his way out, Botha was heard arguing with his lawyers and demanding to be allowed to speak to the media

Botha is facing charges of ignoring a subpoena to testify before the TRC about the activities of the State Security Council (SSC).

Last-ditch negotiations to secure Botha's co-operation with the TRC in return for charges being dropped failed on Wednesday because Botha flatly refused to testify before the TRC

The trial started on Wednesday with evidence by TRC executive secretary Paul van Zyl,

who continued presenting his testimony yesterday

Prosecutor Bruce Morrison, SC, asked for the postponement because the state needed to find certain documents to back up Van Zyl's evidence.

Morrison told the court he would be ready to proceed with the trial on Monday. But Botha's lawyers would not be available until June 1.

Botha's attorney, Ernst Penzhorn, said after the adjournment that his client was concerned that Van Zyl had not been cross-examined yet.

"Obviously Mr Botha would have wanted the cross-examination to be completed so that the other side, if there is one, could also come out"

Botha, who was chairman of the SSC for 12 years, was required to appear before the TRC to clarify the SSC's intention.

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Finger-wagging Botha storms out;

Former president furious over six-week delay of trial

ARG 17/4/98

JOHN YELD
ON THE TRUTH COMMISSION

George - An angry P W Botha lashed out when his trial here for ignoring a Truth Commission subpoena was adjourned for six weeks

Just before regional court magistrate Viktor Lugaju formally announced the adjournment to June 1, the former state president told his counsel, Lapa Laubscher, SC, to read a statement into the court record indicating his displeasure

Moments earlier, as Mr Botha re-entered the court room after a brief break, he said loudly in Afrikaans "Let's get on with this" And wagging a finger "Call the man (Mr Lugaju) that he can come"

Mr Botha's daughter Elanza Maritz, the only one of his four children to attend the trial, appeared close to tears Mr Laubscher, who started to read Mr Botha's statement verbatim then paused and paraphrased it, said his client found the delay "totally unacceptable"

Mr Botha's attitude was that there had been no opportunity for cross-examination of the only State witness called so far, commission executive secretary Paul van Zyl, and untested allegations were being sent out into the world

Prosecutor Bruce Morrison SC said he had been ready to proceed but there were other factors to be taken into account The court also had to consider the position of the two assessors and other lawyers

Mr Laubscher argued that Mr Botha was also being prejudiced by the unavailability of documents Also, while Mr Van Zyl's written statement in the criminal docket was only three-quarters of a page, he had testified for seven



ROY WIGLEY

Vocal: attorney Ernst Penzhorn

hours "The Truth Commission, by playing this game, is blatantly disregarding the accused's right to a fair trial," Mr Laubscher said

Mr Lugaju told Mr Botha he was available to continue but the assessors were not

"Unfortunately I'm not the only person who is in court on this case We know that justice delayed is justice denied but in the circumstances I have no option Honestly, I will be happy to see the case completed at our next session," Mr Lugaju said

Some of Mr Botha's lawyers also have prior court engagements next week As an angry Mr Botha left the court room, he remarked loudly to reporters in English "I'm not satisfied with the proceedings"

He was then seen in heated discussion with one of his lawyers, Piet de Jager Although Mr Botha indicated that he would address journalists outside the court, he

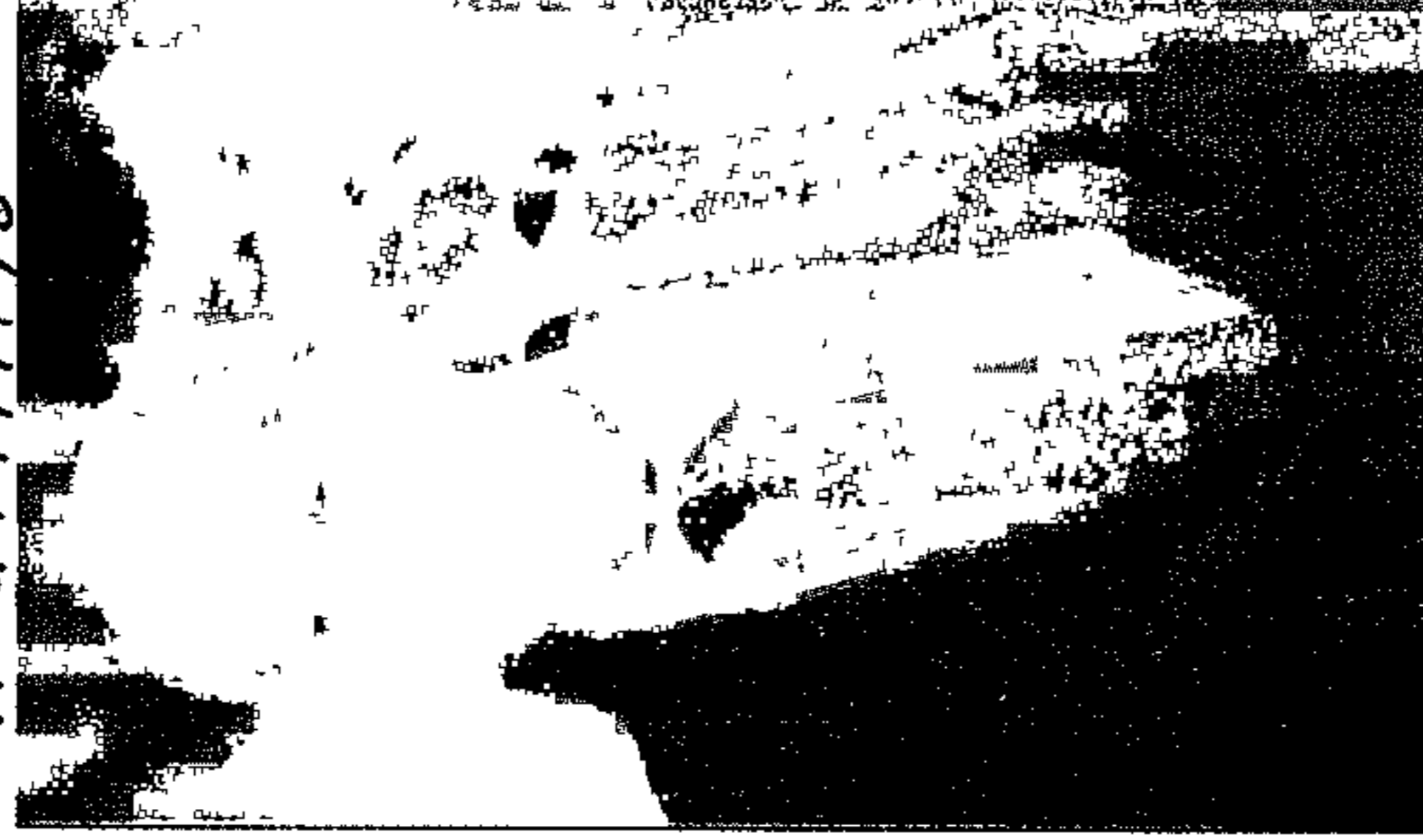
went straight to his car and left But his attorney, Ernst Penzhorn, said "Obviously our client has indicated that he wants it finalised as soon as possible His position is that he would have liked it to proceed over the next few days, but that was not possible June 1 is unfortunately the first available date"

Asked why Mr Botha was so upset, Mr Penzhorn replied "Because one-sided allegations are being sent to the outside world, as it were" He would have preferred Mr Van Zyl to have completed his evidence-in-chief and be cross-examined, "so the other side of the story, if there is one, could also be told"

Mr Botha has pleaded not guilty to failing to obey a subpoena to appear at a commission hearing in December 19 to answer questions about the State Security Council, alternatively hindering the commission in the execution of its duties

In his plea explanation, he accused the commission of prejudice against him and his government, acting unlawfully regarding decisions about him and acting in bad faith with an ulterior motive and "manifestly unjustly"

Mr Botha also claimed there was a formal agreement between himself and Archbishop Tutu that he would provide written answers to questions and not have to appear personally before the commission This was denied by Mr Van Zyl who read into the record a letter dated January 5 1998 to Mr Penzhorn from Archbishop Tutu's deputy Alex Boraine, then acting chairman Dr Boraine wrote "We want to state unequivocally - there was never an agreement that Mr PW Botha would not be subpoenaed to a hearing"



Groot krokodil: PW Botha arrives at court

Front line: TRC chief legal officer Hanif Vally

See pages 8 and 9

ANC, IFP combatants working towards

(252) 00 17/4/98

DURBAN — Once fierce opponents in bloody battles in northern KwaZulu-Natal townships, former Inkatha Freedom Party (IFP) and African National Congress (ANC) combatants in prison were now working towards reconciliation, the truth commission heard yesterday.

Brian Gcina Mkhize, 35, a former IFP hitsquad commander in the Esikhawini area on the KwaZulu-Natal north coast, told an amnesty committee hearing in Richards Bay he now realised he had been exploited by political leaders of the time.

Mkhize, who is serving a life sentence in the Westville prison for two murders, said he and his fellow IFP hitsquad members were involved in regular discussions with ANC counterparts in prison.

"We are committed to bringing about reconciliation with the ANC prisoners against whom we fought in the past. We need to become human again."

Mkhize and six other members of a Caprivi-trained hitsquad have applied for amnesty for more than 56 incidents of violence related to their reign of terror in townships in the province in the late 1980s and early 1990s.

Mkhize admitted taking part in 56 incidents of murder and violence throughout the province. He said it was pointless for politicians to talk about reconciliation while the foot soldiers remained in a state of conflict.

Earlier Mkhize said his time in prison had given him a chance to reflect on his actions which he now deeply regretted.

He said he now understood the pain and suffering he had caused families of the victims and to the ANC which lost so many of its people in the struggle.

He had committed himself to the IFP and had fought for the beliefs of its leaders. However, he and other "foot soldiers of the IFP" felt deserted by the party for which they had fought.

He felt insulted by statements made by IFP leaders.

Mkhize told the committee that Correctional Services Minister Sipho Mzimela had promised to have him and two other members of the hitsquad freed.

He said Mzimela had visited him, Romeo Mbanda and Israel Hlongwane in prison in 1995.

Mzimela was a senior IFP official at the time.

He said Mzimela had explained that there would be problems with their applications for amnesty because the IFP did not recognise the commission

Mzimela told the hitsquad members that the IFP had not been part of the creation of the commission and regarded it as a political pawn of the ANC, he said.

"Mzimela told us our applications for amnesty by IFP members would place the party in a difficult position," Mkhize said.

Mzimela then promised Mkhize and the other two that something would have to be done about their release and he left.

"That is the last we (saw) of him."

He said that he understood Mzimela to say he would try to arrange their release without involving the commission because the IFP did not recognise it.

— Sapa

Reconciliation in jail

Business Day

AY, APRIL 17 1998

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Botha lashes out over delay in trial as time runs out for truth commission

Taryn Lambert

GEORGE — Former state president PW Botha yesterday expressed his dissatisfaction with drawn out criminal proceedings after the case against him for failing to appear before the truth commission was postponed to June 1.

Western Cape deputy attorney-general Bruce Morrison said in the George Regional Court the matter had to be postponed to the earliest date suitable for all the parties. Sources said yesterday it was

doubtful whether Botha would ever appear before the commission considering the lengthy legal process.

The commission must submit its findings to President Nelson Mandela on July 31. Even if Botha is convicted for ignoring a commission subpoena by that date, he may still appeal, which could take months to be heard.

However, if Botha's counsel calls him to testify in the court case, the evidence he gives could be included in the truth commission's final report. After yesterday's adjournment, an

irritated Botha told the court's public gallery he was "not satisfied with the proceedings". Speaking on behalf of Botha, advocate "Lapa" Laubscher, SC, said "the accused would like to place on record that he finds the postponement unacceptable because it will result in untested allegations being sent out to the world".

On Wednesday Botha turned down the commission's offer of an in-camera hearing in exchange for charges against him being dropped. He said he was not prepared to appear before the

commission under any circumstances.

So far only the commission's executive secretary, Paul van Zyl, has given evidence. Van Zyl said Botha had to be subpoenaed to appear before the commission after minutes of State Security Council meetings (of which Botha was chairman) were discovered in May last year. Botha's testimony on his possible involvement in the authorisation of gross human rights violations was needed to gain "clarity". Van Zyl said time was "running out" for the truth commission.

(252)

BD 17/14/98

Reuter reports that Van Zyl said the commission had never intended to embarrass Botha publicly. Chairman Desmond Tutu told me that if Mr Botha was in any way humiliated or if the proceedings became unnecessarily adversarial, I would be fired.

President Nelson Mandela's office denied media suggestions that the president had spoken with Botha in the past 48 hours to try to persuade him to appear before the commission.

Comment: Page 11

Even Madiba magic fails to change stubborn PW's mind

AR 17/4/98

Mandela goes out of his way to soften hard-liner

Madiba's magic has worked wonders for South Africa during its difficult transformation, but there have been a handful of occasions when even President Mandela's seemingly miraculous interventions have failed - and trying to persuade PW Botha to appear before the Truth Commission is one of them.

Now even Mr Mandela, who demonstrated his capacity for Job-like patience during 27 long years of incarceration by the apartheid government, appears to have reached the end of his tether with the stubborn "Groot Krokodil" and says his one-time predecessor must now face the full might of the law.

Mr Mandela has been personally involved over months in intense efforts to persuade the ageing former state president to appear in person at a Truth Commission hearing. In a gesture that had the capacity for generating what would have been arguably the most potent symbol of reconciliation possible in South Africa, President Mandela offered to accompany Mr Botha personally to such a hearing.

His offer was spurned.

Publicly, Mr Mandela has acknowledged going out of his way to persuade Mr Botha to obey the Truth Commission subpoena to attend a hearing on December 19.

He disclosed that he had spoken to Mr Botha twice last year in an effort to defuse the looming showdown with the Truth Commission over the subpoena that culminated in Mr Botha's presence as an accused in a criminal trial which started in the George Regional Court this week.

Mr Mandela also revealed that he had spoken personally to each of Mr Botha's four children - to some of them during a lunch which he hosted specially for the occasion - and had urged them to help prevent their father's further humiliation.

This tactic also failed to dissuade Mr Botha from his chosen path of confrontation with the Truth Commission. But Mr Mandela did not give up even then, and quietly continued to direct his African National Congress colleagues in efforts to effect a compromise, although this was not done through the Truth Commission in order to respect its independence.

Mr Mandela reportedly instructed

INSIDE STORY

The President has appealed to PW Botha personally, lunched with the former president's children and used all his considerable influence to save him from embarrassment, writes JOHN YELD at the Truth Commission at George



Mpumalanga premier and the ANC's chief legal adviser Mathews Phosa to lead the diplomatic charge to rescue Mr Botha from his seemingly self-destructive and lonely path. Perhaps not surprisingly, Mr Phosa has declined to confirm this or to elaborate on efforts by the ANC.

Responding to a request for comment by the Cape Argus, Mr Phosa's only answer was "I would say simply that everyone who can make a contribution towards achieving the objectives of the (Truth Commission's founding) Act, which is aimed at achieving a clear picture of the conflict of the past and contributing towards reconciliation and nation-building, should do so. And that includes Mr Botha."

Why should Mr Mandela have put so much effort into the attempt to achieve a face-saving and honourable solution for the man who was in effect his chief jailer and bitter political opponent for so many years?

Firstly, there is the president's unequivocal commitment to reconciliation and nation building that incorporates all South Africans, whatever their past or present political persuasions - and that obviously includes Mr Botha.

And on a personal level, Mr Mandela would probably be unhappy at seeing any one - and especially someone so close to him in age and who had always professed to be a law-abiding citizen - being humiliated and embarrassed by having to stand in court as



Reconciler President Mandela

an accused in a criminal trial.

In political terms, Mr Mandela would have been keen that Mr Botha's self-proclaimed defiance of the Truth Commission and subsequent court appearance should not be able to be manipulated by right wing elements into a possible rallying point for those opposed to the ANC government's transformation efforts.

Also, despite Mr Botha's unhappy reputation as being both a political bully and a political coward for refusing to "cross the Rubicon" in 1985, Mr Mandela is known to have a good measure of respect for him.

This is partly because of the stature of the office of state president, which Mr Botha held from 1984-1989, but also because the president is understood to acknowledge the significant role played behind the scenes by Mr Botha in helping to defuse the potentially devastating threat posed by right wing elements in the run up to South Africa's first democratic elections four years ago this month.

So Mr Mandela continued his efforts, despite being effectively snubbed by Mr Botha.

Impeccable sources told the Cape Argus

this week that Mr Mandela had gone so far as to contact Mr Botha at the 11th hour on Tuesday, just hours before his trial was due to start, and had urged him again to accept an agreement that was being negotiated between his (Mr Botha's) legal team, the office of Western Cape Attorney General Frank Kahn and Truth Commission lawyers.

However, this was denied yesterday by presidential spokesman Parks Mankahlana, who said Mr Mandela had last spoken personally to Mr Botha last year.

By the time Mr Botha's trial finally got under way here at mid morning on Wednesday, Mr Mandela appeared to have admitted defeat.

Mr Mankahlana said Mr Mandela's attitude now was that no-one was above the law and that the Truth Commission was a legally constituted body.

"Now the law must take its course and Mr Botha should be entitled to any punishment that he has invited on himself."

"Even now the president would be very pleased if Mr Botha would change his mind. The Truth Commission is about reconciliation and nation building, and everyone has a contribution to make. But it (the commission) is built on law, and if anyone is in breach of the law, he must be punished."

The ANC's head of information in the Western Cape, Cameron Dugmore, told the media attending Mr Botha's trial in George this week that his organisation believed the former state president had missed an historic opportunity by refusing to negotiate an agreement to appear at a Truth Commission hearing.

Referring to Mr Botha's notorious backing off from announcing expected political reforms during his "Rubicon" speech in Durban in 1985, Mr Dugmore commented "It's a pity it's come to this. PW has missed crossing the Rubicon a second time."

President Mandela went as far as was humanly possible to help Mr Botha make that seemingly simple crossing, but his hand was rejected.

Instead, Mr Botha has chosen to strand himself on that bank which has been left high and dry by the flow of history.

Now he has only himself to blame.

Chief Buthelezi reacts to allegations in TRC hearing – and says his hands are clean

(252)
Sovan 18/4/98

Ulundi – Chief Mangosuthu Buthelezi yesterday said he never authorised or approved of murder or other illegal activities while he was chief minister and police minister of KwaZulu Natal

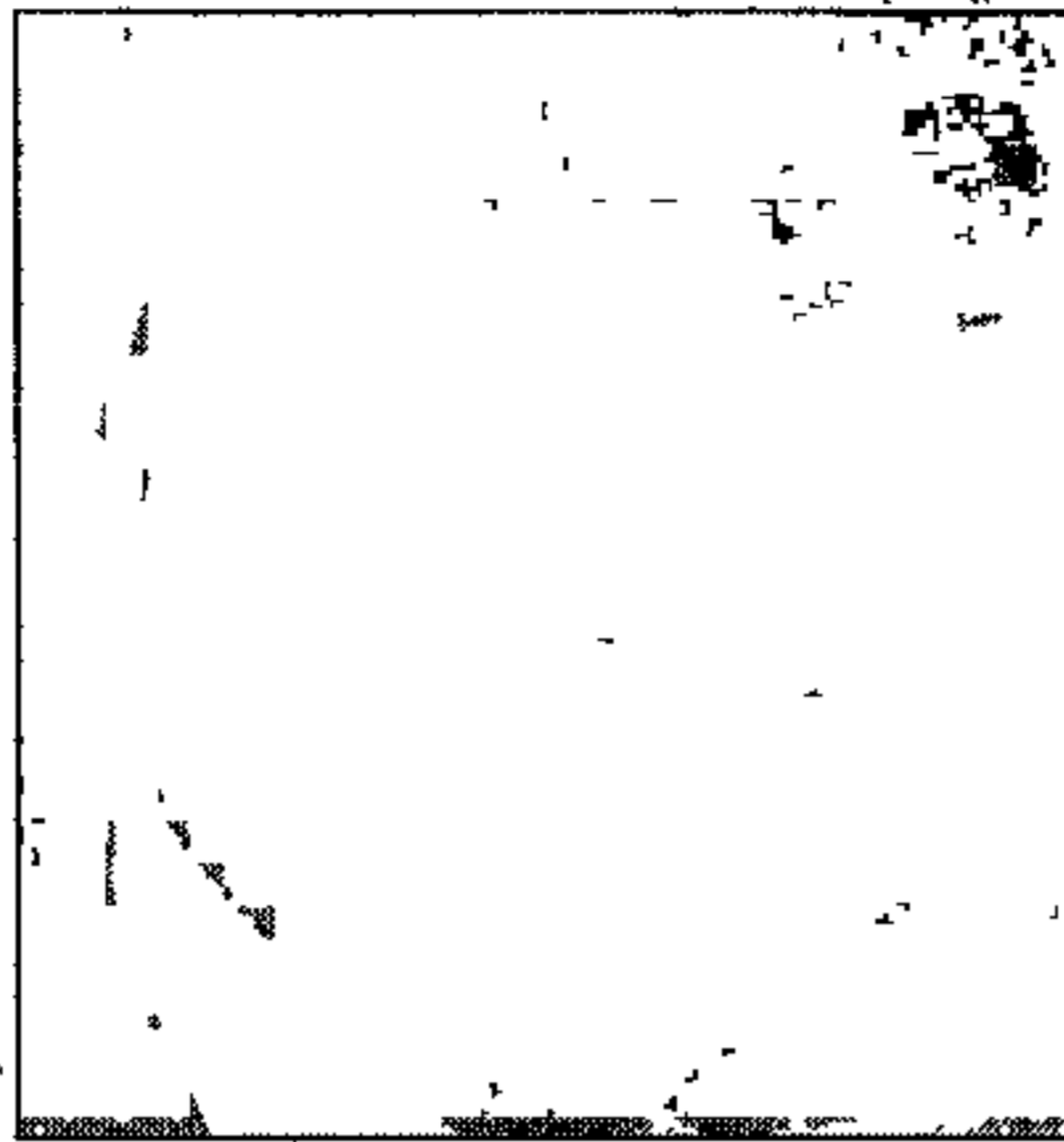
“My hands are clean,” he said in a statement yesterday

The Inkatha Freedom Party president was responding to allegations made during a Truth and Reconciliation Commission hearing in Richards Bay this week

Brian Gcina Mkhize and other former IFP hit-squad members who were trained by the former SA Defence Force in the Caprivi Strip are applying for amnesty for a range of massacres and assassinations of ANC supporters in KwaZulu Natal during the late 1980s and early 1990s

The applicants claim to have carried out the attacks on the orders of KwaZulu police officers and IFP officials

Mkhize told the hearing he had committed himself to the IFP and



INDIGNANT: Allegations are lies, says IFP leader Chief Buthelezi

had fought for the beliefs of its leaders. However, he said he and his fellow combatants had been deserted by the IFP leadership which now denied any knowledge of their activities

Mkhize said he found this

insulting and it made him feel ashamed that he had been part of the IFP's struggle.

In his statement, Buthelezi said he had received press inquiries asking him to comment on allegations made at the hearing

“I have not seen any transcript of their statements and I have no intention of reacting to hearsay and second-hand reported information,” Buthelezi said

“However, I shall once again restate that at no time while I was chief minister and the minister of police of the erstwhile KwaZulu-Natal government have I ever knowingly authorised, approved or ratified any illegal activity, including political or criminal murdering”

Whoever testified to the contrary was a liar, Buthelezi said

“My hands are clean and at no time have I personally engaged directly or indirectly in any activity of gross violation of human rights,” said Buthelezi. – Sapa

That magic fails to rub off on Groot Krokodil

BY JOHN YELD

APR 18/4/98 (252)

Madiba's magic has worked wonders for South Africa during its difficult transformation, but there have been a handful of occasions when even President Mandela's seemingly miraculous interventions have failed - and trying to persuade P W Botha to appear before the Truth and Reconciliation Commission is one of them.

Now even Mandela, who demonstrated his capacity for Job-like patience during 27 long years of incarceration by the apartheid government, appears to have reached the end of his tether with the stubborn Groot Krokodil and says his one-time predecessor must face the full might of the law.

Mandela has been personally involved over months in intense efforts to persuade the ageing former state president to appear in person at a Truth Commission hearing.

In a gesture that had the capacity for generating what would have been arguably the most potent symbol of reconciliation possible in South Africa, Mandela offered to accompany Botha personally to such a hearing. His offer was spurned.

Publicly, Mandela has acknowledged going out of his way to persuade Botha to obey the Truth Commission subpoena to attend a hearing on December 19 last year.

He disclosed that he had spoken to Botha twice last year in an effort to defuse the looming showdown with the TRC over the subpoena that culminated in Botha's presence as an accused in a criminal trial which started in the George Magistrate's Court this week.

Mandela also revealed that he had spoken personally to each of Botha's four children - to some of them during a lunch, which he hosted specially for the occasion - and had urged them to help prevent their father's further humiliation.

This tactic also failed to dissuade Botha from his chosen path of confrontation with the TRC.

But Mandela did not give up even then, and quietly continued to direct his ANC colleagues in efforts to effect a compromise - although this was not

done through the Truth Commission in order to respect its independence. Mandela reportedly instructed Mpumalanga premier and the ANC's chief legal adviser, Mathews Phosa, to lead the diplomatic charge to rescue Botha from his seemingly self-destructive and lonely path.

Perhaps not surprisingly, under the circumstances, Phosa has declined to confirm this or to elaborate on any efforts by the ANC.

Responding to a request for comment by the *Saturday Star* this week, Phosa's only answer was: "I would say simply that everyone who can make a contribution towards achieving the objectives of the (Truth Commission's founding) act, which is aimed at achieving a clear picture of the conflict of the past, and

claimed defiance of the Truth Commission and subsequent court appearance should not be able to be manipulated by right-wing elements into a possible rallying point for those opposed to his government's transformation efforts.

Also, despite Botha's unhappy reputation as being both a political bully and a political coward for refusing to "cross the Rubicon" in 1985, Mandela is known to have a good measure of respect for him.

This is partly because of the stature of the office of state president, which Botha held from 1984-1989, but also because the president is understood to acknowledge the significant role played behind the scenes by Botha in helping to defuse the potentially devastating threat posed by right-wing elements in the run-up to South Africa's first democratic elections four years ago.

So Mandela continued his efforts, despite being effectively snubbed by Botha.

Sources told the *Saturday Star* this week that Mandela had gone so far as to contact Botha at the eleventh hour on Tuesday, just hours before his trial was due to start, and had urged him again to accept an agreement that was being negotiated between Botha's legal team, the office of Western Cape Attorney-General Frank Kahn and Truth Commission lawyers.

But this was denied on Thursday by presidential spokesman Parks Mankahlana, who said Mandela had last spoken personally to Botha last year.

By the time Botha's trial finally got under way on Wednesday morning, Mandela appeared to have admitted defeat.

Mankahlana said Mandela's attitude now was that no one was above the law and that the Truth Commission was a legally constituted body.

"Now the law must take its course and Mr Botha should be entitled to any punishment that he has invited on himself - even now the president would be very pleased if Mr Botha would change his mind.

"The Truth Commission is built on law, and if anyone is in breach of the law, he must be punished," Mankahlana said.



AT A STANDSTILL: Despite all Mandela's attempts at persuading P W Botha to testify, he has hit a brick wall

Mandela says his predecessor must face the full might of the law

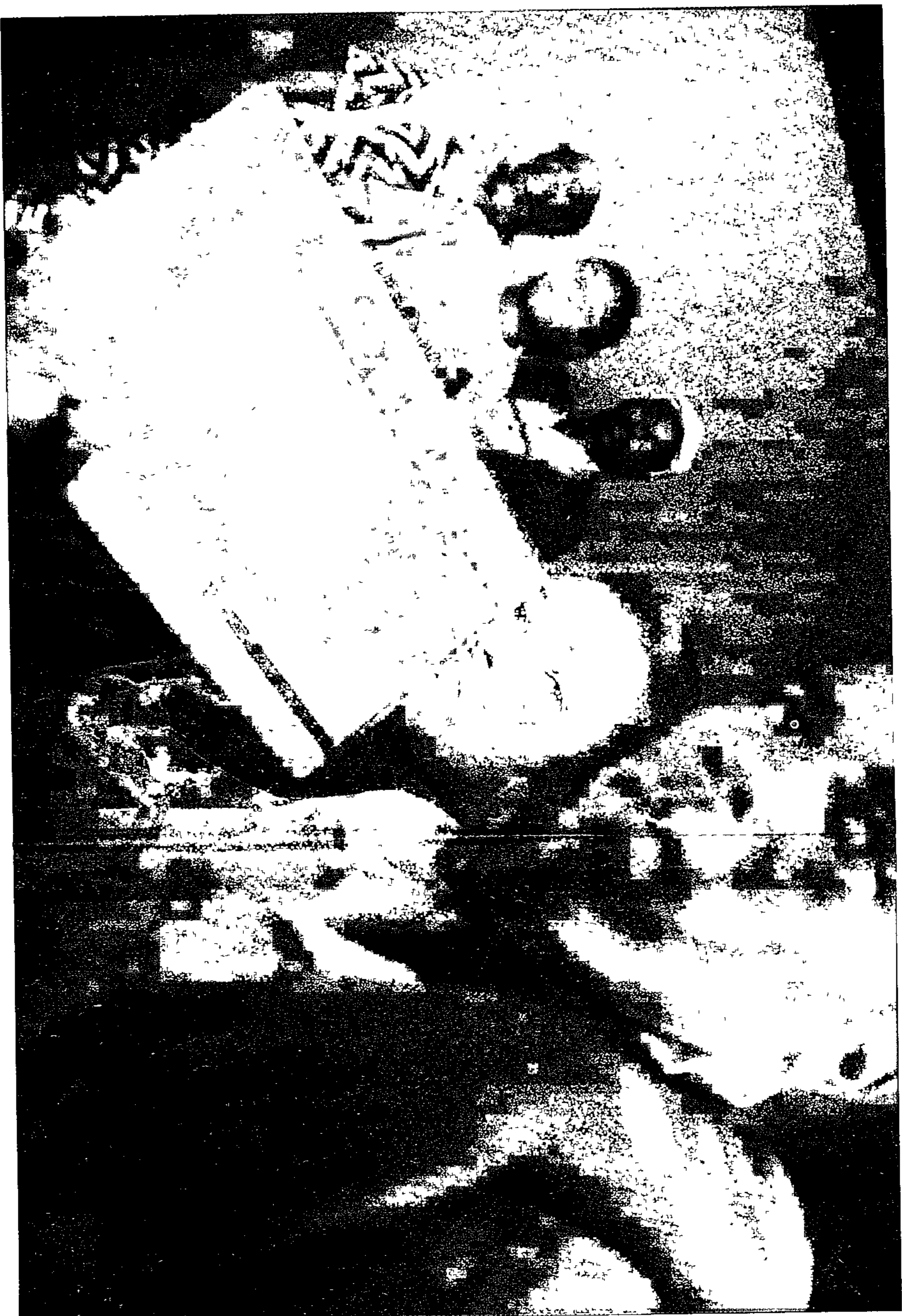
contributing towards reconciliation and nation-building, should do so. And that includes Mr Botha.

Why should Mandela have put so much effort into the attempt to achieve a face-saving and honourable solution for the man who was, in effect, his chief jailer and bitter political opponent for so many years?

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A DIFFERENT WAY: Siphiwe Mdoe, 21, and his sister Tandeka, 18, contemplate the April 30 deadline, by which the alleged killer of their 16-year-old brother Sandile, must pay compensation to their family. Looking on are PDP workers (from left) Nonzi Gxotshwa, Monwabisi Ngwayu and Vincent Motana. **PICTURE: GARTH STEAD**

We don't

condemn

CHRIS BATEMAN

(252) 27 20/14/98

HERE'S a major difference between "ubuntu justice" and the official criminal justice system, according to Peace and Development Project (PDP) worker Mr. Monwabisi Ngwayu.

"We don't condemn — we're different from the courts and the police and we always try to see the positive side of the person," he says. Monwabisi and his fellow workers don't believe in the notion that people cannot change — and he says he's seen the way police work. "I've seen the way they treat people and nothing has really changed. What we're trying to bring back to our people is the notion of 'ubuntu'."

The old homeland policy and it's attendant Western Cape coloured labour preference laws and the Section 10 (working) rights all contributed to the break down in Xhosa family structures, he says.

"This society has been broken into pieces — family units have disintegrated under the conditions we were forced to live in. What we're doing now is rebuilding that trust and a sense of community responsibility."

The community has grown to trust and respect the work the PDP is doing — so much so that two desperate youths, whose "chormnes" stole a car during a drunken spree recently, reported the theft to the PDP. "They discovered that the car they stole belonged to the taxi people and they knew that the taxi drivers don't play around — they'd get hunted down and simply killed," Monwabisi says.

The youths asked the PDP to take their friends to the police, where at least their lives would be safe.

The PDP workers and other NGOs have a message for the criminal justice system. "They must involve themselves more in the community — that's the only way to change the structures. What really frustrates us is seeing people going to jail and coming out and doing the same thing."

Yet they are hopeful. "We're looking for change in the community — it's a process but it's beginning to happen," Monwabisi says. Western Cape Community Safety MEC Mr. Gerald Morkel said it was "very difficult" for him to support any structure outside of the legal system and the constitution. "The dividing line between social structures and vigilantes is thin, however. I know they (the PDP) do good work because we're taming them in law and job creation — and I can see how they feel justice must be done," he added.

Rape

convictions remain low

LAST year a conservatively estimated eight percent of all rapes reported to police in the Nyanga, Crossroads and Brown's Farm squatter camps resulted in convictions.

Ubuntu justice

Equal rights may have replaced apartheid on the statute books, but they remain just ink on paper for the majority of shack-dwellers, who display remarkable ingenuity in overcoming the harsh legacy of our past.

(252)

CT 20/14/98

Not all of us are living in a land under the blessing of the rainbow

ONCE upon a time there was a beautiful country that had finally found a measure of peace after many years of violence, unhappiness and oppression of one group of people by another.

The people of the country lived in a sometimes uneasy time of transition and of trying to make sense of some of the bad things that had happened in their past.

Lots of people tried hard to live in peace with each other and to learn to treat people that they had treated shoddily in the past with the dignity they were due as human beings.

But some people were hard of heart

and saw no reason why they should change at all.

They wanted to keep their lives of privilege and they were suspicious of the group of people who had been oppressed by them in the past.

For many people in the land not that much had changed.

People who had been poor in the past for the most part stayed poor.

Those who had been dependent on the moods and whims of their employers on farms in many cases stayed servile and scared.

For many the message that all had the right to freedom and dignity in the land of their birth remained locked on

paper. They still called people "baas" and "madam".

Into this uneasy time a child was born. A bright-eyed child by the evidence of her photograph lovingly taken by her parents. A child peering out of a picture with an impish smile, little hands stretched out to embrace a world which she would discover was not only a place of warmth and love.

A place she would find out too soon can be cruel and arbitrary. Can be a place where people commit unspeakable cruelty apparently only because they think they are more important than others.

Because, perhaps, they have been scared and damaged beyond redemption

where their blood had soaked into the ground. And he looked old and worn.

The spark of his smile seemed dimmed. He appeared, to steal the words from another times' writings, "A man acquainted with grief".

He knew what that grief was. The unbearable grief of knowing that some people will never change, that they will always believe they are superior to others because of their colour or social position. Perhaps he realised that in some ways the struggle would never end.

Many other powerful people came to visit the family, but in time the spotlight will diminish and their lives will continue in much the same way. Improve-

ished, but now without the possible joy and hope that this small baby could have brought to them.

The courts will apportion blame for this act. The rest of us will have to decide how our attitudes and biases shape the awful reality in which children are shot at apparently for no greater crime than walking through a field.

Angelina Zwane's body will turn cold under the hot African sun and her bones will bleach. She will return to the land over which her ancestors ruled and on which her parents were servants. A small bundle, she is a large reminder of the fact that in many ways we still do not live in a land under the blessing of the rainbow.

ing township rape statistics decrease (see sidebar).

This is where ground-breaking PDP work in Nyanga can arguably be said to be outperforming an overburdened official judicial system — most especially because it uses the community norms and structures to settle matters.

Mr. Thamba Mboona, a PDP volunteer, says the horrific rape incident a fortnight ago was settled "amicably and in the best interests of all" — with no charges being laid.

Tatwe (not her real name) did not want to press charges — she just wanted to go home — something her rescuers accepted during counselling.

At a community meeting, the rapist agreed to pay for medical checks (pregnancy and Aids) and the implications of their outcome, Tatwe's bus fare and food for the journey back home to Nyanga — and financial compensation, should her family insist.

The man is now under close observation by the PDP — an organisation he fears more than police because of its community acceptance and backing — for any repeated anti-social behaviour.

His victim will be spared the trauma of testifying in a lengthy trial with an uncertain outcome, while living in a strange and frightening city far from home. The perpetrator has got off lightly — but he's not been sent to taxpayers' expense to learn the criminal ropes from fellow prisoners, to emerge resentful for what he sees as exercising a Xhosa man's "rights".

Mboona gave the abduction nightmare as just one recent example of the three rape cases a month reported to the PDP — estimated at about three percent of the rapes that actually occur in

ing township rape statistics decrease (see sidebar).

TELETERS

Mr L. Rose-Innes, Hout Bay: It is truly a sad day for SA and his country for the second time, when the executive and its executive members are disgraced by their actions. It is a disgrace that we should have to live in a country where the executive is disgraced by their actions. It is a disgrace that we should have to live in a country where the executive is disgraced by their actions.

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POSTSCRIPT

IT SHOULD be borne in mind that the only thing that can save man from his present way of thinking — and its bewildering results — is the word of God.

Since man is in this predicament — as was the word of God — it is therefore, the

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WE WOULD like the opportunity to respond to two recent articles in

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People have solutions within themselves, so we help them along as they negotiate.

or call in the police by radio when they do. They see themselves as mediators and the eyes and ears of the community — knowing residents and local dynamics far better than the local police — and, most valuably, settling domestic disputes that tear the societal fabric apart.

PDP day operations controller Mr Monwabisi Ngatyu puts it succinctly:

"We don't come up with the answers — people have the solutions within themselves, so we help them along as they negotiate".

A visit to the PDP's ship-container offices in Nyanga reveals "Kilo" patrol to be out in Crossroads, on their way to meet a "divorced" mother whose teenage children claim she is refusing to pay for their schooling.

A local shebeen owner — one of dozens in Nyanga and Crossroads who have bowed to community pressure through the PDP to close nightly at 10.30pm — allegedly beat up 16-year-old Sandile Mdoda for breaking a bottle to use as a weapon in a fight.

"He lambasted him over the back several times with a stick — this broke up a potential fight, but the boy passed out on the way home, became paralysed down the one side, and died in Groote Schuur hospital two days later," PDP member Mr Fundile Mdutshwa says.

The PDP set up a community "ndaba" with the shebeen owner, who agreed to pay the full funeral costs for the boy and recompense the family by a given date.

However, the shebeen owner missed the payment deadline and the PDP will shortly approach him on behalf of the family who've paid out

R2 000 in funeral costs. Senior Nyanga police could find no record of Mdoda's unnatural death.

Other organisations the PDP works closely with are Mosiac — which trains, supports and helps heal abused women — and Protocol, an NGO managing child abuse and neglect.

When I arrived at the Nyanga police station, a Protocol worker, Ms Tina Ndumulo, was encouraging a woman resident to become a "host mother" to a toddler recently sexually abused by a male relative.

An alarming trend reported by the PDP is that township rapists are now targeting children of between six and 12 years old, to minimise the threat of contracting Aids.

"We have volunteer host mothers and volunteer counsellors — all of whom we train. The host mothers need to have a stable home and provide a safe environment until a permanent home can be found for the child," Ndumulo says.

Superintendent Robbie Roberts, head of the SAPS crime prevention unit in Nyanga, concedes that the NGOs are increasing awareness and the effectiveness of the fight against crime.

"It's working — we have a new trauma room at the Nyanga police station and it's being used by social workers on a 24-hour basis. There's also a heck of a lot of crime that's not reported that people are aware of, and we constantly request them to come forward for us to try to solve it," he says.

He need not worry too much — the community has its own "ubuntu justice" and until the official criminal justice system can be seen to effectively serve all South Africans equally, it will continue using it.

Put this in the context of Rape Crisis' estimate that one in 20 rape survivors actually report the crime at all — and the extent of the social evil which Tatwe's story (see main feature) illustrates becomes apparent.

Nyanga detectives pin the high figures on the dismal socio-economic conditions and alcohol abuse.

They add that the low level of awareness of their rights among shantytown women probably vastly disguises the actual seriousness of the problem — but the increased reporting rate is mildly encouraging.

Cape Town Rape Crisis director Ms Carol Bower said of the "ubuntu justice" system: "If communities are taking this kind of initiative, and it works for them, then it's brilliant".

For a woman in Tatwe's situation to see justice being done in a way that made sense for her was "great and could go a long way towards her recuperation," Bower added.

Further evidence of why the community has lost faith in the justice system comes from Nyanga arrest percentages for robbery cases — just 5.2% in January this year versus 24% in the same month last year.

That's before they come to court — conviction statistics were unavailable

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Rights body concerned at obstacles

By SIMON ZWANE

The South African Human Rights Commission has expressed concern that lack of co-operation from cabinet ministers and provincial governments was hampering its work to monitor and assess the observance of human rights

In its 1996/97 annual report,

Commission wants its responsibility to be spelt out in detail

the commission said it had invited the Government to sign a memorandum of understanding to address the difficulties the commission had encountered in getting co-operation from some cabinet ministers and provincial governments.

"The memorandum will explain the powers and responsibilities of the commission and the Government, and regulate

their relations," the commission said.

It said the commission had become aware of a need for a document to set out why there should be the fullest co-operation to help it carry out its mandate

The commission said it had taken initiatives to establish itself in provinces where it so far has had no representation

Proposals have been submitted to the Ministry of Justice for the phasing in of provincial offices over three years, with four offices being set up this year.

Discussions have also taken place between the commission, the public protector and the Commission on Gender Equality on the sharing of facilities and resources in selected provinces.

A meeting of the three human rights organs in December endorsed a proposal to set up "one-stop shops" in the provinces, at which facilities and some programmes would be shared

The report also raised the state of the commission's funding as a concern that

still had to be addressed.

The commission had previously expressed a view that its continued funding through the Justice Department was placing its independence in danger of being compromised. It suggested that its funding be handled directly by the Cabinet

In its report, it said its fundraising efforts had been frus-

Fundraising is another major problem to be tackled

trated by the policy of donors not to subsidise the Government to finance its core activities

"The other problem encountered was the treasury regulations that required all fundraising activities to be undertaken through the treasury. Many donors have no confidence in such a system," the report said

Mandela to tell judges of need for change

BD 20/4/98

(252)

David Greybe

CAPE TOWN — President Nelson Mandela will "more emphatically than ever" stress the need for transformation of the judiciary when he meets 11 KwaZulu-Natal judges on April 30.

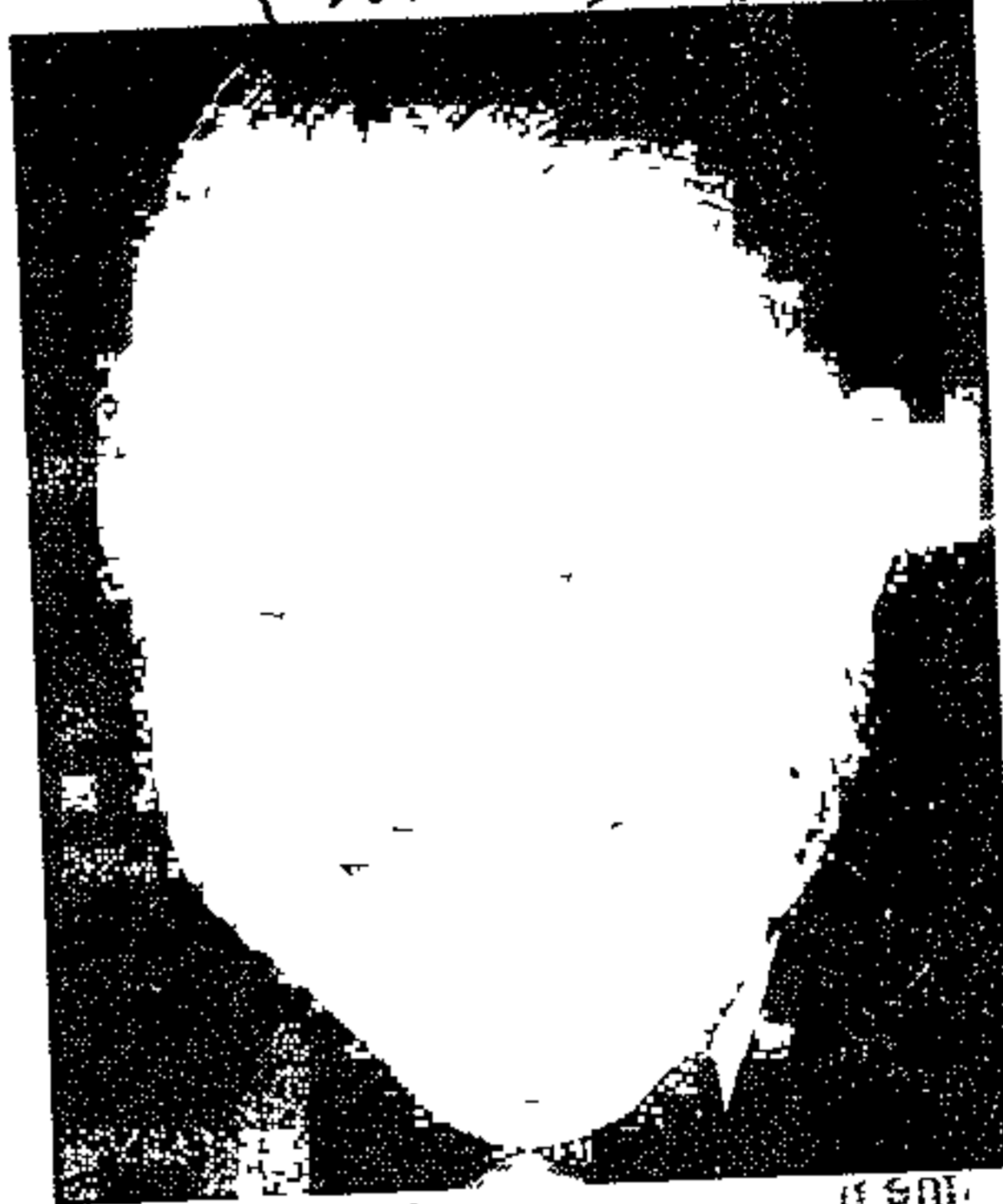
Mandela's spokesman, Parks Mankahlana, said yesterday a dinner had been organised in Durban at Mandela's request where issues arising from a petition by 14 judges opposing the appointment of the first black deputy judge president would be discussed. The judges' delegation will be led by Judge President Allan Howard. Attorney-general Tim McNally will also attend.

The Judicial Service Commission failed this month to choose a new deputy judge president for KwaZulu-Natal after 14 of the province's 19 sitting judges petitioned the commission not to appoint "junior" Judge Vuka Tshabalala. They said he would not be able to command the respect of the other judges in the Natal High Court.

"The bench cannot continue to be as white as it is," Mankahlana said. The judges' petition was an attempt "to preserve whatever remains of white domination" in the judiciary.

Mankahlana said Mandela, while respecting the independence of the judiciary, was "not prepared to countenance any form of racism, and if people think he can be persuaded otherwise they are wasting their time".

While the dinner with the judges formed part of a series of private meetings, at Mandela's request, with the country's judiciary, the dinner date was opportune because of the petition



HOWARD

and the commission's failure to agree on the appointment of a new deputy judge president, Mankahlana said.

Howard said Mandela's office had invited him and asked him to nominate 10 fellow judges to attend. The letter had said there was no particular agenda but the occasion could be used as an opportunity to exchange views. Asked what he thought would be discussed, Howard said "I have no idea".

He nominated outgoing Deputy Judge President JJ Broome, B Galgut, HG Squires, JH Hugo, JH Combrink, KR McCall, P Levinsohn, VM Niles-Dunér, KK Mthiyane, and AN Jappie.

Six of the dinner guests were sig-

Continued on Page 2

Judges

BD 20/4/98

Continued from Page 1

natories to the petition against Tshabalala: Galgut, Squires, Hugo, Combrink, Levinsohn and Niles-Dunér.

The commission, scheduled to meet again in October, is expected to re-advertise for the post at the end of July.

However, it appears almost certain that Tshabalala's first-round opponent — former Afrikaner Broederbond executive member Judge Willem Booysen — will not be nominated again. Known supporters of Booysen concede

privately that he stands little chance even though 16 KwaZulu-Natal judges nominated him in the first round.

Tshabalala, a member of the Natal Bar for 29 years before he was appointed a judge of the Ciskei High Court, was nominated by the National Association of Democratic Lawyers (Nadel).

Tshabalala said it would be "very difficult" for him to refuse another nomination by Nadel. However, because of the controversy following the judges' petition, "I do not want to say anything at this stage. I want to wait until this whole thing cools down."

Comment: Page 11

'Hit squads infiltrated police units'

(252)
Sowetan 21/4/98

INKATHA Freedom Party (IFP) hit squad members infiltrated police units so they could cover up attacks carried out on the party's opponents, the Truth and Reconciliation Commission (TRC) heard in Richards Bay yesterday

A member of the IFP hit squads, Romeo Mbuso Mbambo (26), told the TRC's amnesty committee his transfer to the KwaZulu Police's detective branch in Esikhawini township, near Empangeni, was arranged by senior IFP officials

He said it was made clear to him that his role was to cover up political crimes committed by other hit squad members operating in the area at the time

It was arranged for him to be on duty at night at the same time that fellow hit squad member Brian Gcina Mkhize was planning attacks

Mbambo said it was his duty to "sweep" the scene of any evidence and also to verify whether the targeted people had been killed

Mbambo and Mkhize are two members of a hit squad trained in the Caprivi in the then South West Africa who are applying for amnesty for their part in a reign of terror in KwaZulu-Natal in the early 1990s

The other applicants are Israel Nyoni Hlongwane, Bhekisisa Alex Khumalo, David Zweli Dlamini, Daluxolo Wordsworth Luthuli and Berthwell Bheki Ndhlovu

Mbambo and Mkhize are serving sentences in Westville Prison for murders they committed in 1993

Mbambo testified to a string of random shootings in the Esikhawini area during 1992. He claimed to have been furthering the political aims of the IFP at that time

He described one incident when he and three other hit squad members opened fire at people at a bus stop

Mbambo said the passengers were all Alusaf and Richards Bay Minerals workers who belonged to the Congress of South African Trade Unions - Sapa

Nkabinde 'ordered killing of youths'

BT 21/4/98

(252)

MARITZBURG: A former self-defence unit member from Maswazi in the KwaZulu-Natal midlands testified in the High Court here yesterday that murder accused Mr Sifiso Nkabinde had given the order to kill two youths in Esigcaki, Richmond, in 1993.

Mr Nkoko Memela said that one of the victims, Bongani Vivian Mhlongo, had been killed because of his role in the murder of school-teacher Julius Mkhize in October 1993.

Mhlongo admitted at the time that he had accidentally shot and killed Mkhize and apologised for having done so.

Mhlongo's friend Zamokwakhe Fane Phungula was killed on the same day as Mhlongo, allegedly because he had vowed to avenge

Mhlongo if he was murdered.

Memela testified that at a meeting chaired by Nkabinde after Mkhize's murder, Nkabinde had said both youths had to be killed.

He claimed that Mhlongo and Phungula had been taken by SDU members to an open field where they were shot dead.

The SDU members apparently fled the scene during the shooting.

Yesterday morning state witness and retired policeman Mr Windus Sotwili Mkwanazi testified how he had been informed of an alleged plot to kill him in May last year.

He claimed that Mr Mpa Mtolo had approached him at his home and given him the telephone number of a Major Sikhosana of the army's Group Nine in Maritzburg.

In the meantime Mkwanazi's

former station commander at the Richmond police station had informed him of the plot, allegedly hatched by Nkabinde.

Mkwanazi claimed that he telephoned Sikhosana who confirmed the plot but told him not to worry as the matter was being investigated. Under cross-examination by defence advocate Mr Shane Matthews, several discrepancies were detected in Mkwanazi's testimony.

One of them was the fact that Mkwanazi had failed to report the matter to the police, apparently because he did not take the threat seriously. However, he later presented a statement on the issue to the head of the special investigation team, Director Bushie Engelbrecht. The trial continues — Sapa

'I didn't kill David Webster'

(252)

Ferdi Barnard admits he monitored Omar and claims CCB coercion

Star 2/14/98

BY NORMAN CHANDLER AND OWN CORRESPONDENT

Former Civil Co-operation Bureau operative Ferdi Barnard has admitted in the Pretoria High Court that he kept Justice Minister Dullah Omar under surveillance in Cape Town while aware that Omar was going to be killed as part of a CCB project.

Barnard, who gave evidence before Mr Justice Johan Els yesterday, said it was the first time he had admitted that he monitored Omar and knew what Omar's fate was supposed to be.

"I gave this new evidence which I was not allowed to give before the Harms Commission," he said.

He claimed that the CCB did not want him to divulge this evidence before the commission. He had had no choice but to do so because his legal fees at that time

were being paid by the CCB. He also admitted that the CCB wrote his testimony for him in certain instances during the commission.

But he denied playing any part in the actual plan to kill Omar or the gunning down of political activist Dr David Webster.

He said although he knew who Webster was, he never received an order from the CCB to kill him, and never killed him.

"I had nothing to do with Webster's death," he said.

Barnard is charged with having murdered Webster, various attempted murders, and allegations of fraud, defeating the ends of justice, intimidation, and being in possession of arms, ammunition and other armaments.

He has denied all charges against him, except being in possession of an unlicensed firearm.

Although more than 10

state witnesses have so far testified that Barnard told them he had killed Webster, Barnard denied this also: "I did not tell anyone I killed him."

He told the court there were times that he was under the influence of cocaine and crack. He said most of his friends smoked crack and that he used about 90% of his earnings to buy drugs.

"When you have been on cocaine, your head gets funny. All my friends in northern Johannesburg were cocaine sniffers, both men and women.

"I had been using at that time a gram of cocaine a day, as well as the stronger cocaine crack. If you are on crack you do not worry about cocaine any longer, but if it (cocaine) is available, then you use it. You have to have cocaine every 25 to 30 minutes or else you feel very 'sleg' (bad)."

Barnard hesitantly admitted under cross-examination by state advocate Anton Ackermann that he was a master of manipulation - depending on the circumstances.

He said that in his line of work it was sometimes necessary to mislead people.

"I am good at it, but I think you are giving me too much credit if you say I am a master at it," he said.

He also agreed with the State that at times he was a good actor.

Barnard admitted that he had lied in the past to get out of trouble and to avoid jail. "I know I am in trouble now. However, what I am telling you today is the truth. I am under oath. I will not lie in the High Court, because I know I will be caught out."

"I do not have to tell lies anymore to protect the CCB or account to them."

Cross-examination will resume today.

Hitman tells TRC his IFP leaders knew of and encouraged violence

(252)

Star 21/4/98

Richards Bay - Public statements by IFP president Mangosuthu Buthelezi about Zulu anger were interpreted as a call to war by IFP militants battling the ANC in KwaZulu Natal townships, the TRC heard yesterday

A self-confessed member of an IFP hitsquad, Romeo Mbuso Mbambo, told the TRC amnesty committee in Richards Bay that Buthelezi's outbursts of anger and warnings of retaliation by Zulus were a coded call to attack the ANC.

He said supporters in his area of Esikhawini, near Empangeni, interpreted the statements as an instruction, and attacks on ANC areas almost always followed these statements.

Mbambo (26) lashed out at Buthelezi, who he said had been involved in a squabble with the ANC and had used his followers to attack ANC-supporting areas

He said he realised his own statements placed his and his family's lives in danger, but that if he was killed for speaking out, it would be better to die than to live with a "conscience full of people's blood."

Mbambo was well known in the Esikhawini community, where he worked as a policeman by day and a hitman by night Immaculately

dressed in a maroon sports coat and colourful tie, he asked the more than 1 000 people present to forgive him for shattering their lives

He said many IFP leaders were opposed to the TRC and had tried to stop him from going ahead with his application. However, he said he was tired of being used by leaders who now disowned him and denied any knowledge of his activities

Mbambo said attacks in the Esikhawini area also followed the broadcast on television, shortly before the 1994 elections, of the locally produced drama *The Line*, which dealt with train violence in Gauteng.

He said because it portrayed the attackers on the train as Zulu-speaking, this led to widespread anger

Calls by Gauteng IFP leader Themba Khoza for the drama not to be broadcast were construed as an invitation to attack anyone who watched the programme.

Mbambo claims the IFP leadership, including Buthelezi, not only knew of the violent attacks on ANC areas, but encouraged them

He is presently serving a 72-year sentence for four counts of murder for which he was arrested in 1993

The hearing continues today - Sapa

Buthelezi talk of Zulu anger 'a call to war'

RICHARDS BAY Public statements by Inkatha Freedom Party leader Chief Mangosuthu Buthelezi about Zulu anger were interpreted as a call to war by IFP militants battling the ANC in Kwazulu-Natal townships, the Truth and Reconciliation Commission heard yesterday.

A self-confessed member of an IFP hit-squad, Romeo Mbuso Mbambo, told the TRC amnesty committee here that Buthelezi's outbursts of anger and warnings of retaliation by Zulus left him in no doubt that this was a coded call to attack the ANC.

He said supporters in his area of Esikhawini, near Empanangeni, interpreted the statements as an instruction, and attacks on ANC areas had almost always followed Buthelezi's statements.

Mbambo lashed out at Buthelezi who he said had been involved in a squabble with the ANC and had used his followers to attack ANC supporting areas.

He said he realised his own statements placed his and his family's lives in danger but for him it would be better to die than to live with a "conscience full of people's blood".

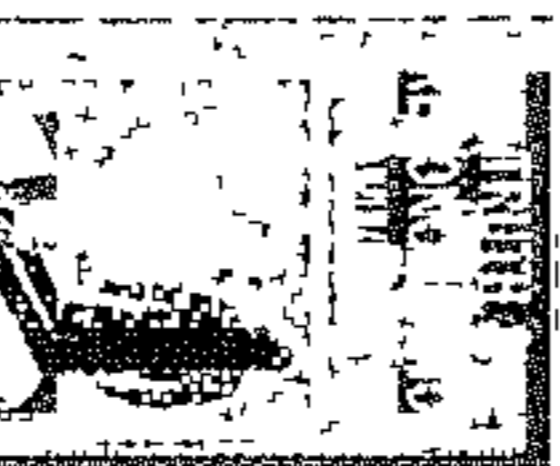
Mbambo was well known in Esikhawini community, where he worked as a policeman by day and a hit-man by night. He asked the more than 1 000 people present to forgive him for shattering their lives.

He said he was risking his life by appearing before the community and asking for amnesty, because many IFP leaders were opposed to the process and had tried to stop him from going ahead with his application. However, he was tired

of being used by leaders who now disowned him and denied any knowledge of his activities.

Mbambo said attacks in the Esikhawini area had also followed the broadcast on television of the locally produced drama *The Line*, dealing with train violence in Gauteng shortly before the 1994 elections.

The portrayal of the attackers on the train as being Zulu speaking, had led to widespread anger. Calls by Gauteng IFP leader Mr Thamba Khoza for the drama not to be broadcast were construed as an invitation to attack anyone who watched the programme.



Mbambo said groups of IFP militia roamed the streets of Esikhawini on the night of the broadcast and fired at houses where the televisions were on.

He is serving a 72-year sentence on four counts of murder, for which he was arrested in 1993. In his application for amnesty he has admitted committing many more murders that were never reported.

He has recounted numerous incidents when he and other gunmen fired into crowds at bus stops, at the sides of roads and at rallies without knowing how many people they killed or injured.

He and six other members of an IFP hit-squad have applied for amnesty for 56 incidents that could involve at least 100 deaths that occurred during a reign of terror in Kwazulu-Natal townships in the late 1980s and early 1990s.

Mbambo told the committee it was his duty to "sweep" the scene of any evidence and also to verify whether the targeted people had been killed. — Sapa

Barnard denies in court that he killed David Webster

ET 21/4/98 (252)

PRETORIA Former policeman and Military Intelligence (MI) operative Ferdi Barnard yesterday denied in the Pretoria High Court he had killed anti-apartheid activist Dr David Webster.

Barnard, however, admitted he had monitored Justice Minister Dullah Omar in 1989 with the view to have him killed.

Barnard denied most of the 34 charges against him, which range from murder and attempted murder to intimidation and fraud.

Attorney-General Anton Ackermann accused Barnard of being an "expert liar" who deceived witnesses and was willing to lie under oath when he was in trouble.

He was accused of "adapting" his evidence to fit in with the evidence of over 30 state witnesses. Ackermann told Barnard "Your evidence contains elements of the truth, but most of it is absolute nonsense."

Barnard admitted his job as an intelligence agent, and before that as a policeman, had trained him to deceive people and that he had led under oath to the Harms Commission of Inquiry into third force activities, as well as to an inquest into Webster's death.

But, he said, one could not lie in a High Court, because you were bound to be caught out. "I am telling the truth," he said.

Regarding his work for the Civil Co-operation Bureau (CCB), Barnard said he was often provided with information sheets with names and information about the movements of activists, but never received his orders in writing.

He said Webster's name never appeared on any of the lists. He said he was never involved in either monitoring or killing Web-



'LIAR': Ferdi Barnard

ster and denied he ever confessed to killing Webster to anyone, including journalist Jacques Pauw.

"Initially, I did not want to know anything about Pauw, but after discussing it with my superiors and with Eugene de Kock — former commander of the police's Vlakplaas unit — we decided to launch a Stratcom operation, which amounted to a smear campaign against Pauw.

"I was heavily into cocaine at that stage. I spent about 90% of my income on cocaine. I was so under the influence of crack pipes that I cannot even remember what I discussed with Pauw that day. I can't think that I would have confessed Webster's murder, because I did not do it."

Barnard said he had often visited the house of a friend, which was near that of Webster, but denied that he had monitored Webster. He could not remember what he did on May 1, 1989, the day of Webster's murder.

Barnard added he was in 1989 asked by Slang van Zyl, a private investigator who was also part of

the CCB, to monitor Omar. He became aware that Omar was to be killed by Cape Flats gang members.

"There was never any order that I had to kill him. I simply had to monitor his movements."

Barnard said he at first recommended that the plan be called off because of Omar's irregular movements and the fact that he often had other people with him but later — after Omar's heart attack — reported that his movements had returned to normal.

Barnard denied he had almost killed Omar and that he had confessed this to one of his former girlfriends. Barnard admitted he had at one stage monitored ANC activist Bruce White, but denied planning White's murder.

He also denied monitoring or intimidating University of the Witwatersrand activist Anton Roskam by setting his car alight.

Barnard testified he had never been involved in a robbery in the former Bophuthatswana, although he had tried to help two friends, Eugene Riley and Mark Frances, who were involved in it.

He did not know why Frances made a statement to police implicating him in the robbery, and denied helping Riley to kill Frances in an alley with a baseball bat.

He claimed he had heard from Riley that Frances was killed by drug smugglers.

He said at one stage he stored illegal weapons and explosives for MI when he was tasked with creating arms caches, for which the blame could be placed on the Azanian People's Liberation Army, the Pan Africanist Congress and other related organisations.

The hearing continues today. — Sapa

Mandela will 'not interfere' in judicial

David Grebbe

CAPE TOWN — President Nelson Mandela yesterday spoke to Chief Justice Ismail Mohamed and Constitutional Court president Arthur Chaskalson and assured them he would not interfere "in any way" in the activities of the judicial service commission.

Mandela's call to SA's top two judges follows a report in Business Day yesterday in which his spokesman Parks Mankahlana said the president would "more emphatically than ever" stress the need for transformation of the judiciary when he meets 11

BP 21/4/98 (252)

KwaZulu-Natal judges on April 30

Mankahlana said a dinner had been organised in Durban at Mandela's request where issues arising from a petition by 14 judges opposing the appointment of the first black deputy judge president would be discussed. The judges' delegation will be led by Judge President Allan Howard. Attorney-general Tim McNally will also attend.

"While the president may use the opportunity to discuss topical issues regarding the SA judicial system, it is not his intention to discuss the matter of nominations to the vice-presidency of the KwaZulu-

Natal High Court," Mandela's office said yesterday.

"The matter is now in the hands of the judicial service commission and the president has no intention to interfere with its independent operations whatsoever," a statement said.

The judicial service commission failed this month to choose a new deputy judge president for KwaZulu-Natal after 14 of the province's 19 sitting judges petitioned the commission not to appoint "junior" Judge Vuka Tshabalala. They said he would not be able to command the respect of the other judges in the Natal High Court.

"The bench cannot continue to be as white as it is," Mankahlana said in Business Day yesterday. "The judges' petition was an attempt 'to preserve whatever remains of white domination' in the judiciary."

Mankahlana said that Mandela, while respectful of the independence of the judiciary, was "not prepared to countenance any form of racism and if people think he can be persuaded otherwise they are wasting their time."

The meeting with the KwaZulu-Natal judges was part of a continuing consultation process by the president with judges of the high court in the provinces

He had already met the judges in Gauteng and would on Thursday meet the judges from the Cape High Court, led by Judge President Friedman.

"The purpose of the consultation is to exchange views with different role players in SA society," Mankahlana's office said.

"It is within the same context that the president has been consulting with religious leaders, members of the media, leaders of other political parties and the trade union movement among others."

As a result, the president made the assurance that "the commission will not be interfered with."

Service Commission

IFP hit squad members in police 'covered up party crimes'

BA 2/14/98

(252)

RICHARDS BAY—Inkatha Freedom Party hit squad members infiltrated police units so they could cover up attacks carried out on the party's opponents, the truth commission heard in Richards Bay yesterday.

A member of the IFP hit squads, Romeo Mbuso Mbambo, 26, told the amnesty committee his transfer to the KwaZulu police's detective branch in

Esikhawini township, near Empanzeni, was arranged by senior IFP officials.

He said it was made clear to him that his role was to cover up political crimes committed by other hit squad members operating in the area at the time. It was arranged for him to be on duty at night at the same time that fellow hit squad member Brian Gcina Mkhize was planning attacks

Mbambo said it was his duty to "sweep" the scene of any evidence and to verify whether the targeted people had been killed

Mbambo and Mkhize are two members of a hit squad trained in the Caprivi in then South West Africa who are applying for amnesty for their part in a reign of terror in KwaZulu-Natal in the early 1990s

The other applicants are Israel Nyoni Hlongwane, Bhekisisa Alex Khumalo, David Zweni Dlamini, Dalaxolo Wordsworth Luthuli and Berthwell Bheki Ndlovu

The hit squad members have admitted carrying out dozens of murders, many never reported and for which no one was arrested

Mbambo and Mkhize are serving sentences in Westville prison for murders they committed in 1993

Mbambo described one incident in which he and three other hit squad members opened fire at people at a bus stop

Mbambo said the passengers were all Alusaf and Richards Bay Minerals workers who belonged to the Congress of SA Trade Unions and were therefore enemies of the IFP

People inside the buses fled back and the hit men fled — Sapa

Barnard claims he wanted to confess

Stephané Bothma

PRETORIA — Former Civil Co-operation Bureau (CCB) agent Ferd Barnard told the high court yesterday he wanted to confess in 1990 that Swapo activist Anton Lebowski had been monitored before being gunned down outside his Windhoek home, but claimed that his military superiors had stopped him.

Barnard, 39, entered the witness box in his own defence yesterday for the first time. He denied involvement in most of the 34 crimes with which he has been charged, including the 1989 assassination of Wits university lecturer David Webster.

However, he admitted that he

had monitored Dullah Omar, now justice minister, knowing Omar was to be killed by other CCB members. Barnard denied he would have been involved in the planned murder.

He told Judge Johan Els that he had possessed a sawn-off shotgun without a licence.

Barnard said he had testified twice about the Webster murder (at the Harms commission in 1990 and the Webster inquest two years later), both times denying involvement.

His legal costs were paid by his military employers, and they had "written the text" for his evidence.

"I could not tell the whole truth. I wanted to admit the monitoring of Lebowski, but was told they would

not pay my legal fees. I was also afraid that they would frame me for certain things. They were definitely capable of doing so."

The court heard that Barnard had joined the CCB in 1988, shortly after being released from prison where he had served a term for murder. He later joined the military intelligence directorate of covert collection (DCC).

In both jobs he had to make contact with the "underworld" and supply information on African National Congress and Pan Africanist Congress activities and members.

"Initially, I did not know the objectives of the CCB, but later I learnt that it involved the elimination of

people in foreign countries and also domestically," Barnard said.

Webster's name was not on his lists of names of people and organisations to be monitored and watched. "I was not involved in his murder, and had never told anybody that I had been," Barnard testified. He could not recall exactly what he did on the day Webster was shot, but said he had probably spent the day exercising and visiting a friend.

Admitting that he had mastered the art of deception and lying while employed by the DCC, Barnard said he would not use this talent to secure an acquittal. "Deceiving people was a prerequisite and a way of life while I worked for military intelligence."

(252) B0 21/14/98

Crises show up demise of rainbow nation

PD 21/14/98
 Former president PW Botha is a pathetic old man but he was right to snub the truth commission, writes author Rian Malan (1/5A)

IN SA last week three related crises unfolded simultaneously. You could tell it was serious politicians struck preposterous attitudes and played shamelessly to their constituents, thereby risking, indeed almost ensuring, the very outcome they professed to fear most: the reversal of racial violence.

Former president PW Botha went eyeball to eyeball with Archbishop Desmond Tutu, daring the truth commission to make a martyr of him by jailing him for ignoring its subpoena. Liked by indications of rising Boer support for the Old Crocodile's stance, Nelson Mandela started drumming up outrage about the murder of a black baby, shot by a paranoid white smallholder as she traversed his land on a cousin's back.

The killing seemed to dramatise all the ugliness of the racial order Botha once symbolised, but even as Mandela consoled the grieving parents, black robbers were torturing and murdering an elderly white Roosenekal farmer, the third such killing in the district this year and sure evidence in Afrikaner minds that a campaign of ethnic cleansing is under way.

By midweek the press was aflame with racial malice, Afrikaners ranting about Boers who shoot black people "like animals", Afrikaners charging Mandela with callous indifference to the butchery of whites at black hands. "The storm," said Die Beeld, "is moving in a dangerous direction."

Maybe so, but All that can be said with certainty at this point is that Tutu's attempt to heal a divided nation would appear to have failed: the truth commission has left us more divided than ever.

be, setting in motion a chain of events which has now thrown the underlying divisions into painfully stark relief.

How did we get here? The truth and reconciliation process might have worked had there been consensus that what happened here in the 1980s was a low-grade civil war, not a morality play. The aim of the combatants, as Oliver Tambo said, was "to engage the enemy to the hilt and destroy him physically", and the fact that neither side succeeded entirely was not for want of trying.

The conflict ended when the belligerents realised they were facing an enemy they could not destroy without destroying themselves. They then opted to lay down weapons and negotiate. Acknowledging these fundamentals would have allowed the hard men to leave the battlefield with their dignity intact and made it easier for ghosts to settle.

Yet there was a price to pay. The ANC would have had to recognise that there was at least a shred of honour in the Afrikaner nationalist cause, and that its own eschaton was tarnished by the blood of innocents. This proved difficult. "It is not a question of bad apples on both sides," explained Water Affairs Minister and leading ANC intellectual Kader Asmal. "It is a question of a good tree and a bad tree."

From the beginning the truth commission was undermined by the fact that all 17 appointees were fruit of the good tree, one Boer dinosaur excepted. The commission's comrades, left-wing academics, priests, gender specialists and civil rights lawyers claimed to be open-minded, but once hearings got under way such protestations began to ring hollow.

Parents demanding justice for sons who vanished in ANC detention camps were advised to shut up. Soldiers who invoked anti-communism as their ideological lodestar were greeted with rolling eyes and mocking laughter.

There was no serious inquiry into the ANC's own crimes. Apparently, ANC guerrillas were ordered to avoid soft targets, but they blew up several restaurants anyway, with a cinema, a rugby stadium and the offices of Helen Suzman's political party. The ANC said it was struggling for democracy, but fostered rabid intolerance, terrorised rivals, tortured spies, executed dissidents, initially hailed "necklacing" as a sensible way of discouraging collaborators and flooded the country

with Soviet weaponry. None of this should be taken as exoneration for the psychopaths and racist fanatics who have appeared before the commission in the past two years, or for Botha, their commander-in-chief. He came to power as a reformer, only to be rocked by years of arson, strikes, boycotts and riots which weakened the Afrikaner state to such an extent that the ANC came to believe, in 1985, that it was about to topple.

At this point Botha seems to have started operating in accordance with another ANC slogan. "Submit or fight." The last vestiges of legality were cast aside, the secret police and military intelligence given carte blanche to crush the insurrection by any

means necessary. The State Security Council held discussions about the need to "neutralise" certain high-profile political figures, several of whom were murdered and cast into shallow graves where they rested uneasily until truth commission investigations began, whereupon the buck started moving back up the chain of command, from constables to colonels to the minister of police and, finally, to Botha himself.

There is no doubt that he has much to answer for. Not even his best friends would describe Botha as a lovable figure. His popularity was fading even before he was forced out of power. He has spent most of the past decade in obscurity, less a venerated elder statesman than an object of mirth, given to fulminations about the state of the nation and flirtations with the most eccentric far right-wingers.



Former president PW Botha

So how is it that half the general of his old high command showed up at his first court appearance, along with representatives of almost every known Afrikaner political faction, a display of unity not seen since 1979?

The answer is that we Boers are terminally fed up. Even those of us who were mutually sympathetic to the truth commission have been alienated by the princely salaries of the commissioners, the flashy cars they drive courtesy of the taxpayer, and, above all, by the unsharable self-righteousness with which they go about their business.

Tutu has repeatedly insisted that all white civilians accept this "last opportunity" to fall to their knees and atone for mortal sins of cupidity and selfishness. This is a bit much, coming from a body that the Pan Africanist Congress has described as "a self-enrichment

scheme for ANC supporters", and enormously irksome to those of us who believe we attained a certain nobility in 1994 by surrendering power to a mistrusted enemy in the interests of common progress, a gesture for which we have received little save insults, deterring services and rising crime.

The final outrage came last November when a truth commission subcommittee granted blanket amnesty to 37 ANC heavyweights and cabinet ministers, none of whom were required to appear in public or detail the actions for which they were seeking pardon. Shamed by the ensuing outcry, the commission attempted to rescind its own decision, but the damage was done: it had lost all credibility in Afrikaner eyes.

The commission and its patrons in government seemed to sense the changing mood, and went to extraordinary lengths to avert last week's showdown with Botha, offering to describe his appearance as a "meeting" rather than a hearing, and to hold it in camera, with Mandela put to hold his hand, and questions put to him in writing in Afrikaans beforehand.

Botha, clearly relishing his return to the limelight, told them to get lost. He would not, as a matter of principle, appear before a body so blatantly biased, nor would he apologise for actions taken "in the struggle against the revolutionary communist onslaught against our country". It was vintage Botha, and entirely predictable. Afrikaners stood up behind him, as if cheering a rugby try.

"SA is on a most dangerous path and heading for an abyss," he said last week, glaring into the cameras like a cantankerous old buffalo. "They are attempting to destroy my image and, through me, to humiliate my people." It was brave and pathetic. The rainbow nation has turned out to be an advertising gimmick, the last vestiges of euphoria have evaporated. Instead of falling into each other's arms now that it is permissible, we discover we do not like each other much. —@Telegraph pic

Tutu again invites Botha to TRC

ARG 21/4/98

(252)

TYRONE SEALE
FOREIGN SERVICE

London – Archbishop Desmond Tutu has again invited former State President P W Botha to answer "about 20 questions" before the Truth and Reconciliation Commission.

The TRC chairman said it would be better for Mr Botha to appear before the commission rather than before a black magistrate to answer charges of contempt

But Archbishop Tutu acknowledged that while, in his own words, he was "seeking to reach out to (Mr Botha)", this may not be the view of the entire commission

He said yesterday at Westminster, where he announced a new initiative to rehabilitate 300 000 Mozambican refugees in South Africa, that Mr Botha had played an important role.

"We all have not acknowledged that he did begin the process of talking to Nelson Mandela. He has a heart. Just as an ordinary human

being, I feel for him

"All that needs to happen is for Mr Botha to come before the commission. We said we were ready to call (the hearing) anything, except that we could not have a private talk

"He said he could talk only to the president and myself

"We have said he could talk to me, with some of my colleagues "

Archbishop Tutu said the commission had prepared about 20 questions – that Mr Botha could answer in less than a day

Barnard 'monitored Omar'

ARGUS CORRESPONDENT

Pretoria - Former CCB-operative Ferdi Barnard admitted in the Pretoria High Court that he monitored Justice Minister Dullah Omar in Cape Town when he knew that Mr Omar was going to be killed during a CCB-project.

Barnard, giving evidence yesterday before Judge Johan Els, said it was the first time that he had admitted monitoring Mr Omar

Barnard claimed that the Civil Co-operation Bureau did not want him to divulge this evidence before the Harms Commission.

He said he had no choice but to listen to them because his legal fees at that time were being paid by the CCB.

Barnard denied any part in the plan to kill Mr Omar, or that he had anything to do with the murder of political activist Dr David Webster

(252) ARG 2114/88
More than 10 state witnesses have testified that Barnard told them he had killed Dr Webster but Barnard said "I did not tell anyone I killed him"

He denied all the charges against him, except being in possession of an unlicensed firearm

He told the court that there were times that he was heavily under the influence of cocaine, and later crack. He said most of his friends smoked crack and that he used about 90% of his earnings to buy drugs.

Barnard hesitantly admitted under cross-examination by state advocate Anton Ackermann that he was a master of manipulation

He said in his line of work it was sometimes necessary to mislead people. He also agreed that at times he was a good actor

Cross-examination will resume today

Judge opposed to Tshabalala sits on TRC

(252)

Sowetan 22/4/98

By Pamela Dube
Political Reporter

ONE of the judges who opposed the appointment of Judge Vuka Tshabalala as the deputy president of the KwaZulu-Natal bench, sits on the Truth and Reconciliation Commission (TRC) amnesty committee

The TRC amnesty committee member, Judge Andrew Wilson – one of the people entrusted with the job of reconciling South African society – acknowledged yesterday that he was one of the judges on the KwaZulu-Natal bench who opposed Tshabalala's appointment

The judges who opposed Tshabalala's appointment argued that instead the position should go to Judge Willem Booysen, a former member of the Broederbond. They said Tshabalala lacked experience.

The appointment has since failed to go through with each candidate getting seven votes.

There has now been a call for the process to start over again, with new candidates likely to feature.

Wilson told *Sowetan* yesterday that he did not participate in the drafting of the petition opposing Tshabalala's appointment, saying "we just expressed our views", when arguing for Booysen's appointment.

He argued that the action was not racist as Tshabalala and his supporters have argued.

"People who say our views are racist have no understanding of the process," Wilson said. Tshabalala was quoted last week as saying his detractors were racist.

Wilson argued that he had opted for Booysen because he had 17 years experience on the bench. And Tshabalala, Wilson argued, had been on the bench for only three years in Bisho with no experience on the Natal bench.

However, Tshabalala's supporters argue that he could not get the experience on the bench in the past because of racism in the judiciary.

Attorney Krish Govender of the National Association of Democratic Lawyers was quoted recently as saying that Tshabalala "did not have the opportunities that went with white privilege to shine as a special legal personality, nor was he given the opportunity to be involved in a wide cross-section of legal work."

The Black Lawyers Association has also supported Tshabalala and condemned the white judges for their reluctance to accept the transformation of the judiciary.

As to whether Booysen's past – as a member of the Broederbond – did not bother the judges, Wilson said "the past did not matter. If the past was an issue here, does it mean I shouldn't be sitting on the TRC amnesty committee?"

Bungles at amnesty hearings

By Joe Mhlela

THE amnesty application hearing of three members of the Azanian People's Organisation set for the Gauteng legislature during the past two days has been jinxed, or so it appears

The three activists, Mr Pitso Hlala, Mr Anastasios Mphoreng and Mr Ernest Thadakubona, are applying for amnesty for their role in the torture and killing of pupils aligned to the Soweto Students' Congress, which was affiliated to the United Democratic Front

Between Monday, when the hearing began, and yesterday, no proper arrangements had been made Judge Bernard Ngoepe said so in so many words "The sound system is not working, we have to adjourn the proceedings".

Technical problems

So the proceedings, which were to start at 10am on Monday, only began at about 1pm, and even then sat for a mere 20 minutes when there was a problem with the sound system and hearing devices

A visibly frustrated Judge Ngoepe ordered the proceedings to resume at 9am the next day

But 9am was to be 11am Still, technical problems were the cause of the delay, except that a new dimension compounded the problem mysteriously, relatives of the victims had not been formally invited to the hearings

The judge said he regretted this omission as they were also entitled to be present when the amnesty application was made

Bad blood

Judge Ngoepe asked for a further adjournment to have a better understanding of why the relatives of the victims had not been invited to such an important hearing

When the judge finally emerged from his chambers, he said it was clear that technical and other administrative bungles had necessitated a postponement to June 8 and June 9 "to give relatives of the victims an opportunity to prepare their case"

However, Hlala had earlier briefly sketched the circumstances that had led to the feud between the "Charterist" UDF-aligned and Black Consciousness camps during 1996

(257) *Lawyer* 22/4/98

He said "bad blood" had existed between the two groupings resulting in "unprecedented violence" which started in the Eastern Cape in 1984 "Most of our members were killed by the Charterist camp, often accusing us of having been responsible for the murder of the Cradock Four," Hlala said

He told the hearing that in August 1986 he had been informed that a house belonging to "Comrade Jeff Lengane" had been burnt down

The hearing was also to consider the applications for amnesty by nine Afrikaner Weerstandsbeweging (AWB) applicants for the killing of four blacks

They have also claimed responsibility for injuring six other black people at Ventersdorp in North West in December 1993

Accused tells of 'vicious' CCB

OWN CORRESPONDENT

PRETORIA: The curtain was partly opened yesterday on the murky world of spies and agents working for the one-time Civil Co-operation Bureau (CCB)

The men who travelled throughout the country, into Africa and further afield were masters of deception, experts at lying and corroborating their lies, and not frightened to intimidate, discredit and even murder their own colleagues and friends if they stepped out of line

The rules were laid down in stone by top army generals: Monitor the activities of enemies of the State, and murder them

According to convicted diamond smuggler, one-time policeman and former CCB and Military Intelligence agent Ferdi Barnard who is on trial for the murder of Wits academic David Webster, it was the practice of monitoring which eventually led to the death in Windhoek of Namibian activist Mr Anton Lubowski

Barnard was at pains to tell Mr Justice Johan Els that he had been in Cape Town on the day of the murder, but admitted to having



SLAIN: Anton Lubowski

been part of the monitoring team which marked Lubowski for death

The picture he painted yesterday of the CCB, for which he worked for 18 months before its disbandment in 1992 is that of ruthless men who never took "no" for an answer

He told the court there were "many ways you could see your case" if anything went wrong, both for colleagues and victims

"The CCB did not play around. If they wanted to shoot someone, they did," he said. "We undertook projects which left people dead"

FOOTNOTES ON 1992

Ferdi Barnard

PRETORIA: Former intelligence officer at Ferdi Barnard, accused of murdering Wits academic David Webster, said yesterday the notorious Civil Co-operation Bureau would have been dissolved but it did not to have had anything to do with the 1980s thing him

He also told the Pretoria High Court that there may be some "leakage" of the type of information set up by his former boss, Joe Vorster, also known to him that he had information to hunt

Barnard repeatedly denied he was responsible for Webster's murder in May 1989 but admitted for the first time that he had been a member of the CCB in a court

He said source of his confession may have taken part in own court proceedings

Applicant angry over 'special treatment' of PW

Special treatment of PW

CHRIS BATEMAN
27/22/14/198

AMNESTY applicant Mr Afrika Hlajo, 38, who made headlines last year when he pleaded for reconciliation with the surviving family of a man he murdered, lashed the TRC yesterday for its "special" handling of Mr P W Botha.

Hlajo, who delivered the killer blow to contract builder Mr Frederick Jansen after an angry crowd stopped and set fire to Jansen's car during a 1980 City Tramways strike, said Botha's "gentle" treatment by the TRC was infuriating

"I've changed my mind about this reconciliation thing — yes, I still want to meet the Jansen family and explain those circumstances and plead forgiveness — but Botha's handling has destroyed my trust in the TRC," he said

Hlajo said he believed the TRC was "kneeling down and begging for mercy to a man who showed no mercy to jailed and ailing 81-year-old activist Mr Oscar Mpetha"



Hlajo served 11 years of a 20-year sentence for the murders of Jansen and another motorist, Mr George Beeton — after Mpetha called for a bus boycott that resulted in widespread violence

Mpetha was jailed after the same long-running and controversial trial

Hlajo was referring to Mpetha's jailing for five years for "terrorism" at the age of 76 and Botha's "lack of compassion" when Mpetha later fell severely ill in jail

"Mpetha was a year short of Botha's present age — I'm not seeking revenge, just highlighting the injustice of it all"

What particularly angered him was President Mandela's attempts to persuade Botha to testify

"And what about Winnie Mandela — society forced her to go for a hearing before the TRC, it's just not equal or fair," Hlajo said "I'm not saying people should be hated, but they should not be appeased at the expense of other people — people must be treated equally"

Handwritten initials or signature.

Police 'need people's trust'

ET 22/4/98 (252)

CHRIS BATEMAN

THE only way to put criminals behind bars is to provide credible, acceptable evidence — and that requires police to gain the trust of communities

This was said yesterday by advocate Mr Johnny de Lange, chairperson of the parliamentary portfolio committee on justice, in response to revelations in the *Cape Times* of an alternative system of justice in the townships

The Insight feature on Monday highlighted how communities in Nyanga and Crossroads are brokering compensation deals between crime perpetrators and victims without resorting to the overburdened criminal justice system

It also showed how the apartheid legacy has left shackland

dwellers with little or no faith in the justice system

De Lange, while admitting that the justice system was "hugely flawed", said restoring faith in it was paramount

"If our communities are not providing evidence because they don't trust police then the first line of the criminal justice system begins cracking," he added

Society's first line of defence was the community, with the police force second, prosecutors and courts third and correctional services fourth — with an efficient welfare system woven through all four, he said

"We have enormous problems in terms of police being good investigators of crime and putting proper evidence before the court," he said

Proper training of police in detective work was therefore crucial

De Lange said that alarming 1994 research had revealed that only 15% of South Africa's detectives had then received any kind of detective training

Many police staffers were also under-educated and unable to speak the language of complainants

"So proficiency and capacity building are top priorities," De Lange said

He revealed that Justice Minister Dullah Omar was considering appointing lay justices of the peace to deal with minor cases which were "clogging up the courts, like little assaults, domestic disputes and even bail"

However, drafting an enabling law was a long way off, he said.

Barnard points finger at CCB

Star 22/4/98 (2/5)

He admits links to dirty-tricks outfit but denies role in Webster's murder

By **NORMAN CHANDLER**
Pretoria Bureau

Former intelligence agent Ferdi Barnard, accused of murdering Wits University academic David Webster, said yesterday the notorious Civil Co-operation Bureau could have been involved but claimed not to have had anything to do with the 1989 killing himself.

He also told the Pretoria High Court that there may be in existence a CCB-type organisation set up by his former boss Joe Verster, who once told him that he had R100-million to fund it.

Barnard spent a torrid five hours in the witness box yesterday as state attorney Anton Ackermann dissected evidence given by Barnard to the 1990 Harms Commission, the 1992 inquest into Webster's death, and evidence led during the current hearing.

Barnard steadfastly de-

ned he was responsible for the murder on May 1 1989 but admitted for the first time that he had been a member of the CCB when it was committed. He said some of his colleagues may have taken part.

The CCB - part of the army's Special Forces and responsible for anti-insurgency measures as well as hit squad activities against perceived enemies of the state - was officially disbanded in December 1990.

Barnard told Mr Justice Johan Els that Verster had met him in Midrand in 1992 to tell him about the formation of a CCB-type organisation whose sole job would be to "protect economic interests".

Barnard had assisted the CCB in disinformation, discrediting and intimidation projects, sometimes against its own members and top police officers, and if he had not done so, he would have

been ostracised by his colleagues. The CCB hierarchy told him he had no option but to be to the Harms Commission and at the inquest if he wanted his legal costs to be paid by the state.

"Lawyers and advocates at the commission had to dance to the tune of the CCB," he told the court.

Barnard said he had played a major role in disinformation being handed to the media which linked Irish national Donald Acheson, a freelance CCB agent, to the murder of Namibian activist Anton Lubowski.

Acheson was eventually deported from South Africa. Ackermann asked Barnard the significance of a sawn-off shotgun Barnard had used at various times. Evidence was earlier led during the trial that a shotgun was allegedly used to murder Webster.

Barnard told the court he

had borrowed the gun for only a short time and had "tested" it shooting guinea fowl on a KwaZulu Natal farm. He said there was no special significance to the fact that he had fired shots from a moving vehicle.

On the day of Lubowski's murder in 1990, Barnard claimed to have been in Cape Town but he admitted to the court that he had earlier been part of a monitoring team assigned to check on Lubowski's movements.

"I knew there was a likelihood that he would be killed. He was monitored with an eye to that end. That is the truth," Barnard said.

Barnard earlier told the judge that he had "lost his job just before the Webster murder", but Ackermann yesterday led evidence showing that Barnard was paid by the CCB for months after the Webster murder.

The trial continues

'Monitor enemies of the state and murder them'

By **NORMAN CHANDLER**

The curtain was partly opened yesterday on the murky world of spies and agents working for the Civil Co-operation Bureau.

The men who travelled throughout the country into Africa and further afield, were masters of deception; experts at lying and corroborating their lies; and not afraid to intimidate, discredit and even murder their own colleagues and friends if they stepped out of line.

The rules were laid down in stone by top army generals "Monitor the activities of enemies of the state, and murder them."

According to convicted diamond smuggler, one-time policeman and former CCB and Military Intelligence agent Ferdi Barnard, it was the practice of monitoring which eventually led to the death in Windhoek of Namibian activist Anton Lubowski.

Barnard was at pains to tell Mr Justice Johan Els that he had been in Cape Town on

the day of the murder, but admitted to having been part of the monitoring team which marked Lubowski for death.

The picture he painted yesterday of the CCB, for which he worked for 18 months before its disbandment in 1992, is that of ruthless men who never took "no" for an answer.

He told the court there were "many ways you could see your arse" if anything went wrong, both for colleagues and victims.

"The CCB did not play around. If they wanted to shoot someone, they did," he said. "We undertook projects which left people dead."

He told of how Brigadier Floris Mostert, then head of the Brixton murder and robbery squad, was earmarked for a beating up (a strong Afrikaans phrase was used by Barnard) when he instituted an inquiry into CCB activities in the organisation's Region 6, headed by operative Staal Burger. Mostert, in the end, was spared the ordeal.

Truth commission 'needs more teeth'

Josey Ballenger

20 22/4/98 (252)

TRUTH commission investigators, trauma experts and other observers agreed yesterday that the commission had several shortcomings, including the inability to bring perpetrators to account or to heal the wounds of apartheid-era victims.

"Not nearly enough has been done to uncover the past. In effect, the commission has only begun to scratch the surface," said Piers Pigou, a former investigator on the commission's human rights violations committee.

While recognising the value and certain achievements of the commission, Pigou and others criticised the commission for granting some amnesty awards without public hearings or explanation, for not having adequate structures in place to help victims and survivors after "one therapeutic day at a public hearing", and for the likelihood of the commission's final report, due at the end of July, only containing inadequate information due to unfinished work.

The representatives spoke at a two-day conference evaluating the truth commission, hosted by the Centre for the Study of Violence and Reconciliation in Johannesburg. Glenn Goosen, the commission's former national investigations director, said the amnesty committee had received 7 500 applications, each averaging about two violations. About 1 600 of these were deemed to be gross human rights violations. This contrasted sharply, Goosen and Pigou said, with about 20 000 submissions from victims.

Hlengiwe Mkhize, the chairman of the truth commission's reparation and rehabilitation committee, said government should have signalled a clear commitment to reparations, which the cabinet was due to discuss soon, at the beginning of the truth commission process, "not at the end".

The commission has proposed each victim be awarded R21 000 a year for at least six years, which amounted to roughly R3bn, in contrast with a presidential fund of only R100m, Mkhize said.

TRC hit by racial row over Broeder

Southern 23/4/98 (757)

By Joe Mdhlela

THE Truth and Reconciliation Commission (TRC) has been hit by a racial row, with the black component of its amnesty committee calling on one of their colleagues, Judge Andrew Wilson, to explain why he supported a former Broederbond member for the deputy presidency of the KwaZulu-Natal bench.

In an exclusive interview with *Sowetan*, an angry black member of the committee said: "We have asked the TRC to convene a meeting at which Wilson must explain his strange behaviour of supporting a well-known Broederbond member and opposing a black appointee." Wilson, who this week confirmed

that he had supported the candidacy of Judge Willem Booysen, is expected to give a satisfactory answer to the TRC tomorrow.

Failure to do so will result in the black committee members seeking a hearing with President Nelson Mandela, Justice Minister Dullah Omar and TRC chairman Archbishop Desmond Tutu about his behaviour, the source said.

"If by Friday we do not get a satisfactory answer from Wilson as to why he is supporting the candidature of a well-known Broederbond member most senior post on the bench, we are afraid it will no longer be possible for us to work with him," the source said. The decision by Wilson to align himself with the appointment of

Booyesen has added another twist to a month-long controversy surrounding the decision by white judges to oppose the appointment of Judge Vuka Tshabalala to the position of a deputy judge president of KwaZulu-Natal.

Wilson is regarded in many circles as an enlightened academic but his decision this week to support Booysen has sent shockwaves through political and legal circles.

"The fact that Wilson was once a member of the Liberal Party has always given us the confidence that he is an enlightened lawyer sensitive to the injustices that were brought about by people who supported the Broederbond." "This move to block the appoint-

ment of a black judge to serve as deputy judge president has devastated us," a source said.

Wilson serves as a member of the TRC amnesty committee.

"By definition, his role as a member of the TRC is to help South Africa deal with its past, including the racial conflict that beset the country during the dark apartheid years," the source said.

It was said that a man entrusted with the task of reconciling the nation "was to be the one to support a band of white judges opposing the process of transformation".

He said even the threat by some white judges to resign if Tshabalala got the job smacked of racism. It showed that racism was still

alive, even in the judiciary.

Contrary to claims that Tshabalala was inexperienced, the source said he was admitted to the Bar as an advocate in 1971, and took silk as a senior counsel in 1994.

Tshabalala was appointed a judge in 1996.

"It is not as if he is coming into the position from the cold without any experience.

"He has practised widely as a lawyer and the argument that he is inexperienced does not hold.

"If experience were the criterion, we should have heard the same judges oppose the appointment of Judge Arthur Chaskalson to head the Constitutional Court, when he had not been a judge before," he said.

TRC told how AWB shot ten blacks

NINE MEMBERS of the Afrikaner Weerstandsbeweging killed four blacks and injured six others in 1993 in an attempt to scupper South Africa's first all-race elections, the Truth and Reconciliation Commission heard in Johannesburg yesterday

Deon Martin, one of the AWB members applying for amnesty for the murders, told the TRC how the group pumped bullets into 10 black people on a road west of Johannesburg on December 12 1993

They later cut off the ear of one of their victims to present to their commander as "a trophy", Martin said

One of the victims was 13-year-old Patrick Gasemani, who had half of his head shot away. Another, Abraham Mothupi, sat in the front row of the spectators' bench yesterday - his nose was blown off

Behind Mothupi sat Barend "Wit Wolf" Strydom, South Africa's most notorious rightwinger, who killed eight blacks and wounded several others in a shooting spree in Pretoria in 1989

Before the truth panel as representative of a Boer "prisoners of war" organisation, Strydom said he was attending the hearing to support the applicants' case

Martin, the group's second-in-command, described how the men set up a roadblock with the aim of shooting members of the African National Congress and SA Communist Party

(252)
The men claimed to have received orders from AWB "General" Japie Oelofse to "apply hard options he wanted to see corpses"

Martin said they were told that a nationwide revolution would start that night and, as part of the attempts to halt upcoming elections and push for a whites-only Boer homeland, they pulled over two cars with blacks who identified themselves as ANC members

The right-wingers forced them on to an embankment and shot them in "a matter of seconds"

They said all of the victims appeared dead after the shooting. They set their vehicles alight and picked up spent bullet cases to remove evidence before driving home

Truth panel chairman Judge Bernard Ngoepe said he found it difficult to accept that the 13-year-old was killed by accident given that half his head had been blown away and that evidence indicated that he had been shot at close range

Martin said that the child had possibly been caught in the crossfire, and that he was unaware that a child had been among those hauled out of the vehicles

He said he only found out afterwards that the child had been seated on his mother's lap on the embankment when the shooting started

All nine were arrested and sentenced to life imprisonment - *Sapa-AFP*

'Plot was to kill youths'

Sowetan 23/4/98

By Muzi Ngubane

A FORMER member of the feared self-defence units in Richmond in KwaZulu-Natal, Mr Alfred Ndlovu, told the Pietermaritzburg High Court yesterday that he was present during two meetings in which murder accused Mr Sifiso Nkabinde discussed the killing of two youth leaders

Testifying for the state, Ndlovu told the court that Nkabinde held a meeting with other unit members at a downtown Pietermaritzburg service station

During the meeting Nkabinde told them that a plot had to be hatched to kill leader of the African National Congress Youth League branch Mzwandile Mbongwa and his comrade Muzi Ximba

Ndlovu said Nkabinde told SDU members that Mbongwa should be killed because he was allegedly a police informer. Nkabinde apparently got this information from former commander of SDUs in Richmond, Sikhumbuzo "Bob" Ndlovu

He also testified that during the meeting it had been agreed that Mbongwa's murder should be made to look like the work of ANC rivals, the Inkatha Freedom Party

Ndlovu said when the first plot was not executed, a second meeting was held at Nkabinde's home in Dambuza township

During this meeting three other SDU members volunteered to kill Mbongwa

On March 20 1994 Mbongwa, Ximba and Mzo Mkhize were shot dead during an ANC meeting at Ndabikhona school in Ndalem, outside Richmond. The case continues

Mayor 'relished the sounds of gunfire' (252)

Sowetan 23/4/98

THE former mayor of Esikhawini township in northern KwaZulu-Natal and his wife were unhappy if a day passed without gunshots being fired, the Truth and Reconciliation Commission heard in Richards Bay yesterday

Former Inkatha Freedom Party hit squad member Israel Nyoni Hlongwane (30) told the TRC's amnesty committee he was employed as mayor Mr BB Biyela's bodyguard by day and as hitman by night

Hlongwane is one of seven members of a hit squad trained in the Caprivi in the then South West Africa. They are applying for amnesty for 56 incidents of violence in which at least 100 people were

killed in KwaZulu-Natal in the late 1980s and early 1990s.

The other applicants are Bhekisisa Alex Khumalo, David Zweli Dlamini, Daluxolo Wordsworth Luthuli, Berthwell Bheki Ndhlovu, Brian Gcina Mkhize and Romeo Mbuso Mbambo

Hlongwane told the committee he was employed as a special constable in the SA Police and in 1992 he was assigned to Biyela as a bodyguard. His duties also involved attacking residents in African National Congress-supporting areas of Esikhawini.

He described how he and other hitmen roamed the streets shooting at youths suspected of being ANC supporters. He admitted killing

many youths during this time

He said when he reported for duty in the morning, Biyela and his wife would express their displeasure if they had not heard gunshots the night before.

Hlongwane later complained to Biyela that he was the only person doing the work in the area. He was later relieved of his duties.

Biyela is now chief executive of the Uthungulu regional services council in northern KwaZulu-Natal.

Hlongwane is serving a 75-year sentence in Westville prison for seven counts of murder, rape, kidnapping and attempted murder.

He also admitted involvement in more crimes for which nobody had been prosecuted - *Sapa*

AWB killers were at war, TRC told (2/2)

Star 23/4/98
BY THEMBA SEPOTOKELE

Nine Afrikaner Weerstandsbeweging members killed four people in a bogus roadblock at the Radora Road intersection on the Krugersdorp-Ventersdorp road in 1993, the TRC heard yesterday

Deon Martin, Carel Meiring and Petrus Matthews testified before amnesty committee member Judge Bernard Ngoepe that they had manned the roadblock as part of the AWB's revolution to stop the ANC/SACP/ Cosatu alliance from taking power.

The other six - Phillipus Kloppers, Frederick Badenhorst, Marius Visser, Lodewickes van der Schyff, Andre Visser and Gerhardus Diedericks - should testify today

Martin said Kloppers, who is wheelchair bound, had told them that General Japie Oelofse had informed him that "the revolution begins tonight (December 12)" and that they were to prepare for war

He said they met at the Badenhorst residence, where they drank alcohol and removed the registrations of the Mercedes-Benz and Nissan Sentra they were to use at the roadblock

On their way, the men in the Sentra stopped to assault two black men on a nearby plot

The applicants claimed they stopped any cars with black occupants. The passengers were



Seeking amnesty ... AWB member Deon Martin testifies in Johannesburg yesterday.

asked where they were coming from and where they were heading, before being asked about their political affiliations

"The orders were to kill them if they were ANC mem-

bers," Martin said

Two cars were pulled off the road before Martin fired a shot in their direction - a sign that the others should open fire

Thembanı Nkompone, Tebo-

ho Makuza, Theo More and Patrick Gasemane died. Petrus Mothupi, Wilham Segotsane, Gabriel Shabangu, Martha Bereng, Siphonkompone and Abraham Mothupi survived

Detective pulled off McBride case so that TRC can investigate him

STAFF REPORTER

A South African detective helping Mozambican police to investigate charges of arms smuggling against Robert McBride has been pulled off the case and "serious allegations" against him referred to the Truth and Reconciliation Commission.

Safety and Security Minis-

ter Sydney Mufamadi yesterday said Superintendent Lapies Labuschagne had been removed from the three-man South African police team investigating the McBride case.

Mufamadi would not divulge details of the allegations made by a source against Labuschagne in a National Intelligence Agency (NIA) report. However, The Star reported

last month that convicted assassin Eugene de Kock had implicated Labuschagne in the murder of at least four MK cadres, including Cassius Maake, the most senior member of the ANC killed in exile, in Swaziland in 1987.

Mufamadi said he had given a copy of the NIA report to TRC investigative unit head Dumisa Ntsebeza and asked

him to investigate.

He had also discussed the matter with national police commissioner George Fivaz and they had agreed that it was in the best interests of all concerned for Labuschagne to be removed from the McBride team while the TRC probed the allegations.

McBride, a senior Foreign Affairs official and former MK

member, was arrested in Mozambique on suspicion of gun-running.

He is being held in a Mozambican jail and is expected to appear in court soon.

Fivaz said the decision to remove Labuschagne from the McBride investigation should in no way be construed as reflecting negatively on his professional expertise or standing.

(272)

This decision was taken only after a meeting between myself and Superintendent Labuschagne, in which he himself proposed that it would be in the best interests of the investigation to step down.

"He was himself of the opinion that he could not credibly continue his role in the investigation while certain allegations against him are being probed"

Star 23/4/98

IFP hit squad member weeps at hearing

OWN CORRESPONDENT
Richards Bay

Former Inkatha hit squad member Israel Hlongwane (30) broke down and wept yesterday while apologising to the people of northern KwaZulu Natal for the many murders he committed in the region.

Hlongwane, who is serving a 75-year jail term, was testifying before the TRC's amnesty committee in Richards Bay.

He gave chilling evidence about his murderous activities in a number of KwaZulu towns, including Esikhawini, Mandeni, Sundumbili and Mangete.

He caused a stir among the large audience when he said he had started killing people when he was 16.

His reign of terror had continued for eight years until his arrest in December 1993. He could not even remember the names of many of the people he had killed.

"I would like to apologise unreservedly, even though I may be regarded as a beast," Hlongwane said, adding that he had been acting under orders while a member of a hit squad in the early 1990s.

"There are so many people I have killed," he said before breaking down. The hearing was adjourned to allow him to compose himself.

Earlier in his evidence in support of his amnesty application, Hlongwane gave detailed accounts of hit squad operations carried out in different parts of northern KwaZulu and how he had been sent to infiltrate various areas at the behest of the squad's

commander-in-chief, Daluxolo Luthuli and IFP official M Z Khumalo.

In his affidavit he told of his recruitment as an SAP special constable, his training at Koeberg and his posting to the riot unit in Pietermaritzburg.

He then underwent six weeks of intensive military training by the SA Defence Force at a secret camp at Umfolozi, where he was instructed in the use of weapons such as the AK-47, Uzi and handgrenades.

"We were also to be trained in house penetration, hostage situations and how to carry out planned attacks. The purpose of this training was to guard the chiefs, to eliminate the ANC, and to stop the people from going to vote in the April 1994 elections," Hlongwane said.

The commandant of the base was Luthuli, with Phillip Powell second in charge, he said.

"When we completed our training we were good soldiers. We were now called the self-protection unit."

Hlongwane said he was contacted by one Madlanduna and told to guard former Esikhawini mayor B B Biyela because the ANC wanted to kill him.

After joining the Esikhawini hit squad, the local commander, Brian Mkhize (who has also applied for amnesty), told him that in addition to being the mayor's bodyguard, he was to assist other hit squad members and "go out and kill any ANC people at night".

He said the IFP leadership had been very annoyed that the ANC was strong in the township and "we were constantly told that we must rid Esikhawini of all ANC rubbish".

Hlongwane claimed that in early 1992, Biyela had supplied him with homemade pipe bombs for various attacks in the Esikhawini area.

Ferdi Barnard accuses state witnesses of plot against him

(279)
By NORMAN CHANDLER
Pretoria Bureau

Ferdi Barnard, the former intelligence agent accused of having murdered Wits activist David Webster, has claimed that 11 earlier witnesses at his trial may have colluded in saying he had admitted responsibility for the murder.

Barnard was testifying in the Pretoria High Court for the third successive day yesterday.

He claimed again that he was innocent of the May 1 1989 Webster killing in Johannesburg and also continued to deny that a former Civil Co-Operation Bureau (CCB) agent, Calla Botha, had been in the car from which it is alleged the fatal shot was fired.

Barnard is charged with other crimes, including murder, attempted murder, intimidation, assault, theft, forgery and defeating the ends of justice.

He told Mr Justice Johan Els that evidence given during the trial by three women - Barbara Milne, Maryna Language and Amore Badenhorst - who shared his life for several years, may well have been part of a plot against him.

Asked by Ackermann how 11 previous witnesses had all

testified, he confessed to shooting Webster. Barnard said: "I have not spoken to anyone about my being responsible."

Ackermann: "Are they all liars?"

Judge Els: "Did they give false evidence?"

Barnard: "The only way they could have was to come to a joint decision."

He said that at one stage he would drink two bottles of hard liquor a day and regularly snort cocaine and smoke cocaine crack. He conceded that evidence given to the Webster inquest in 1992, that he hardly touched liquor, was untruthful.

Ackermann asked Botha about a meeting he had with journalist Charl Pauw at Horatio's fish restaurant in Melville, Johannesburg, about three years ago. Botha said he could not remember with any clarity what was spoken about "although I do remember that (TV broadcaster and journalist) Max du Preez was present in the restaurant."

He had smoked crack in the restaurant toilets, leaving their table every few minutes to do so.

"I was totally out of it," he told the judge. "I do not know what was said."

The case continues today.

Staw 23/4/98

Animal rights activists want legislation passed to curb lab experiments

(252) Star 23/4/98

By MELANIE-ANN FERIS
Environment Reporter

There is still no law in South Africa which governs the use or protects the rights of animals used in research laboratories, despite years of lobbying by animal rights activists.

Activists say that although a national code of conduct does

exist - which stipulates the establishment of ethics committees and the minimum standards for housing research animals - no one is forced to abide by its stipulations.

Alan Rolstone, chairman of South Africans for the Abolition of Vivisection, said the law-making process was still in the "workshop" stage and it

would take at least another five years before legislation was passed.

"We do have an animal protection law, but it allows for animal experimentation in the interest of medicine and science," he said.

Barbara Nash, of the National Council of SPCAs, said this week that a governmental

workshop would take place next month to discuss whether the existing code should be legislated.

Rolstone said the lack of legislation allowed institutions like Wits University to conduct experiments without anyone being allowed to enter its laboratories to see how the animals were housed and treated

Launch of AWB 'revolution' marked by horror attack ^(2/2)

CT 23/4/98

JOHANNESBURG: Members of the Afrikaner Weerstandsbeweging killed four blacks and injured six others in 1993 in an attempt to scupper South Africa's first all-race elections, the Truth and Reconciliation Commission heard here yesterday

Deon Martin, one of nine AWB members applying for amnesty for the murders, told the TRC how the group pumped bullets into 10 black people they had stopped on a road west of Johannesburg on December 12, 1993

They later cut off the ear of one of their victims to present to their commander as "a trophy", Martin said

One of the victims was 13-year-old Patrick Gasemane, half of his head was shot away. Another, Abraham Mothupi, sat in the front row of the spectators' bench bearing the scars of his ordeal — his nose was blown off

Behind Mothupi sat Barend Strydom, the notorious right-winger, who killed eight blacks in a shooting spree in Pretoria in 1989.

Before the truth panel as representative of a Boer "prisoners of war" organisation, Strydom said he was attending the hearing to support the applicants' case

Martin, the group's second-in-

command, described how the men set up a roadblock with the aim of shooting members of the ANC and SA Communist Party alliance.

The men claimed to have received orders from AWB general Japie Oelofse to "apply hard options he wanted to see corpses"

Martin said they were told that a nationwide revolution would start that night and, as part of the attempts to halt upcoming elections and push for a whites-only Boer homeland, they pulled over two cars with blacks who identified themselves as ANC members.

The rightwingers forced them onto an embankment and shot them in "a matter of seconds"

They said all of the victims appeared dead once the shooting was over. They set their vehicles alight and picked up spent bullet-cases to remove evidence before driving home.

Truth panel chairperson Judge Bernard Ngoepe said he found it difficult to accept a claim that the 13-year-old was killed by accident given that half his head had been

blown away and that evidence indicated that he had been shot at close range.

Martin said that the child had possibly been caught in crossfire, and that he was unaware that a child had been among those hauled out of the vehicles

Seated next to Martin, the commander of the group, Phil Kloppers, struck a pitiful figure in a wheelchair

He was paralysed after an alleged police beating following his arrest in 1994 and recently wrote to President Nelson Mandela pleading for euthanasia to relieve him of "unbearable pain". He has yet to testify

All nine were arrested and received sentences ranging from life imprisonment to capital punishment, subsequently commuted to a life term

Martin alleged that controversial AWB leader Eugene Terre-Blanche, on a visit to the jailed applicants in 1995, congratulated them on their action. He told them they would not be in prison if more whites had undertaken similar deeds. — Sapa-AFP



Gun-running: TRC to quiz security force men

(252) *Sowetan, 23/4/98*
By Sharon Chetty

MEMBERS of the security forces will soon be questioned by the Truth and Reconciliation Commission (TRC) on their role in gun-running and the illegal arms trade

TRC investigations head Advocate Dumisa Ntsebeza, has confirmed to *Sowetan* that several high ranking officers, some of whom retained their positions, have been investigated for dealing in arms

While there are numerous cases of members of the police and military being charged or suspended for fraud or corruption, their misdemeanours relating to illegal arms are not necessarily recorded as a separate category, said South African Police Service director investigating internal corruption, Stef Grobbelaar

It was therefore difficult to find statistics on security force involvement in the illegal arms trade

But, when the officers are questioned under Section 29 of the TRC Act, it will be the first high-profile examina-

tion of official links to gun-running

Ntsebeza said that the TRC investigators had compiled a "full, comprehensive report" on the problem

The nine-chapter report details the work of numerous syndicates, many of which were helped and protected by the security forces

Ntsebeza said they had found evidence that "those who should have been investigating and arresting the gun runners were themselves involved"

He said that after the initial questioning, it would be seen if those implicated had applied for amnesty and if they had revealed all. If not, it would be recommended that they be charged

Some of the information relates specifically to Mpumalanga and smuggling from neighbouring Mozambique

Mpumalanga Premier Mathews Phosa, whose government set up a special investigations unit in 1996 to work on the problem, said there was "definite evidence of local police involvement" in cross border smuggling

According to Phosa, several well known members of the former security

branch police were implicated in the investigation

"They have since taken packages and left the service as soon as the trail to them was getting hot"

He said that there were leads showing that security branch men were frontmen in a "long chain of smugglers"

A source close to that probe said they had gathered "lots of proof" from Mozambicans that members of the former Military Intelligence service were also involved

"We took statements from Renamo and Frelimo soldiers who pointed us to who was involved on the South Africa side

"We found that even some of the police who were supposed to be investigating gun running were claiming money to be paid to informers but never got any information and never solved any cases"

The source said that despite recommendations that some officers in Mpumalanga be suspended, nothing had yet been done

● See page 13.

Barnard 'victim of a plot'

CT 23/4/98

NORMAN CHANDLER

PRETORIA: Ferdi Barnard, the former intelligence agent accused of having murdered Wits activist David Webster, has claimed that 11 earlier witnesses at his trial may have colluded in saying he had admitted responsibility for the murder.

Barnard was testifying in the High Court here for the third successive day yesterday.

He claimed again that he was innocent of the May 1 1989 Webster killing in Johannesburg and also continued to deny that a for-

(252)
mer Civil Co-Operation Bureau (CCB) agent, Calla Botha, had been in the car from which it is alleged the fatal shot was fired from a sawn-off shotgun.

Barnard told Mr Justice Johan Els that evidence given during the trial by three women — Barbara Milne, Maryna Language and Amore Badenhorst — who had shared his life for several years, may well have been part of a plot against him.

"I am aware of people talking to each other (but) I do not know what they spoke about, or whether they spoke about me."

'Transition does not end with truth body'

Josey Ballenger

SEVERAL institutions continued to be "unchanged and unreformed" in the new SA and civil society would have to pick up where the truth commission's work left off in order to facilitate further transformation, commissioners and human rights workers said yesterday.

"The truth commission was one mechanism for transition, but only one," commissioner Yasmin Sooka said at the end of a two-day conference evaluating the commission, which is set to close at the end of July.

"There are key institutions that are unchanged and unreformed," Sooka said, citing as an example the recent subpoena of President Nelson Mandela and the "arrogant" judgment in favour of the SA Rugby Football Union, scrapping a commission of inquiry into the administration of rugby.

Sooka said perpetrators had to apologise for the past, or else a "hardened black mentality" would emerge. "Reconciliation can not be a one-way street."

Graeme Simpson, the director of Centre for the Study of Violence and Reconciliation, which hosted the conference in Johan-

nesburg, said those who had failed to apply for amnesty would have to be prosecuted and that confidence would have to be rebuilt in the criminal justice system because of society's possible sense of impunity.

"The truth is that for those who didn't come forward and are caught out after the truth commission, the witchhunt starts now," Simpson said. It was "absolutely critical" that civil society took on the transformation of "largely intact" state institutions, tackled economic reform and prioritised services for victims.

Catherine Albertyn said the Commission on Gender Equality, of which she is a commissioner, would concentrate on rehabilitating relations between women and men and trying to "understand the links between the violence of apartheid and violence presently against women."

Albertyn said civil society would have to create structures and services to deal with the number of women who had not yet come forward to talk about sexual assaults due to various private, public and political reasons. SA could expect many women to speak out "years" after political liberation, as had happened in Namibia and Zimbabwe.

BD 23/4 198

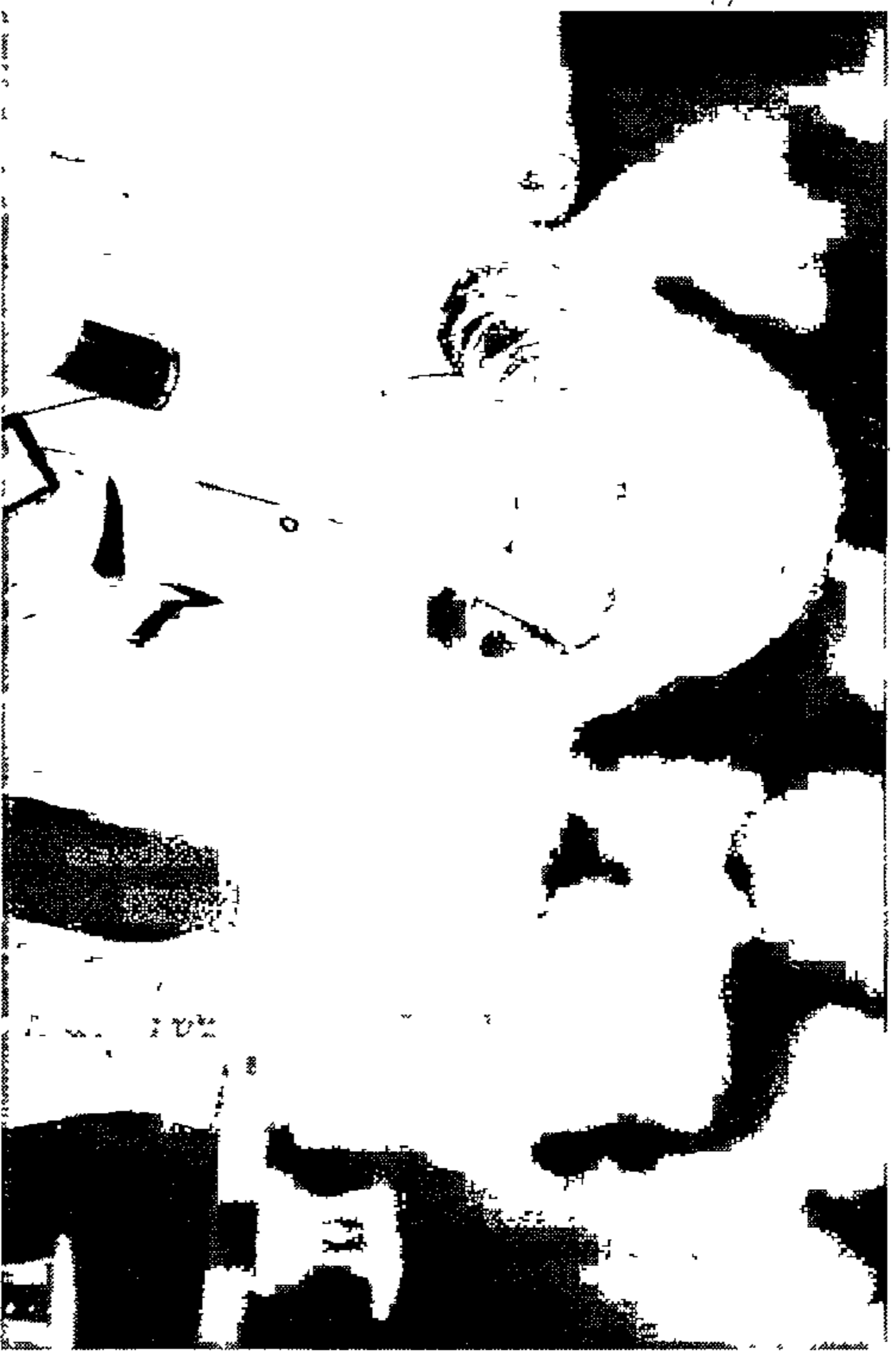
(252)

Youth commission chairman Mahlengi Bhengu said society needed to ensure that SA's youth enjoyed a real childhood and to include them in policy making, training and services.

Sooka said it was necessary for an investigation unit which would have full access to records — something the truth body had problems with — to continue, or else "the story will never be completely told".

The exhumation of bodies of people who "disappeared" should also continue, as this was the biggest request of victimised families and "one of the main instruments of healing". Another social problem was apartheid-era violations which fell outside the commission's ambit as they did not qualify as gross human rights violations. The treatment of farm labourers, for example, "is still plaguing us today", she said.

Cabinet is due to consider recommendations made by the commission earlier this month, including reparations to victims' families and wide public access to the commission's final reports. Sooka said government would probably establish "some kind of structure" to carry out the commission's unfinished work and recommendations.



Suzanne Williams, left, representing Oxfam of the UK, poses a question to the panel at the From Truth to Transformation conference, while panel member Eddie Makue, of the SA Council of Churches, speaks during one of the sessions.

Pictures: TREVOR SAMSON

'Produce corpses'

AWB set up mock ambush on orders to

Tarvin Lamberti

THREE Afrikaner Weerstandsbeweging (AWB) military members who have applied for amnesty for killing four people and attempting to kill six in a mock roadblock ambush told the truth commission yesterday their orders were to produce corpses in an attempt to create chaos in the country four months before the 1994 elections

Deon Martin, Carel Meiring and Petrus Mathews, who testified in their applications yesterday, said their orders had been to adopt "hard options" on December 12, 1993

A 13-year-old boy was killed in the attack, while two children were among the survivors.

The three applicants, along with six other AWB

soldiers who are due to give evidence in their amnesty applications today, had dressed in AWB camouflage uniforms and armed themselves with weapons, including two home-made shotguns, on the night of the murders.

They set up a mock roadblock at the Radora crossing on the Krugersdorp-Ventersdorp road and, using a blue traffic department light and wearing reflective jackets, stopped a number of cars with black passengers, the amnesty committee heard yesterday

The men said they had asked the passengers who they were, where they came from and what their political affiliations were. They also searched the vehicles for unlicensed firearms, which they were ordered to confiscate by AWB general Japie Oelofse. The orders to kill African National Congress (ANC)

four, the committee was told

"We looked at the people with a flashlight and they appeared to be dead because they were not moving. I cut off the ear of a black man because Oelofse wanted a trophy to show (other AWB members) how things were being done in the (Transvaal) area," Martin said

Oelofse later congratulated the men. Martin said he had not given the real reasons for the attack in a statement made to the police after his arrest because his advocate had advised him against it "I wanted to protect myself and the general staff (of the AWB)."

Martin said if "such acts had been committed nationwide" the elections would have been stopped and the AWB would have been able to establish a "boere-

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and SA Communist Party (SACP) aligned members had come from Oelofse, the applicants said

"Oelofse said he wanted to see corpses because the revolution would expand that evening," Martin said. "Our objective was to target SACP-aligned members. We did it to establish political resistance and to stop the elections from continuing. We were told it would cause a revolution and instil fear in the general public," he said

When 10 passengers in a Honda Ballade and a Toyota Cressida stopped at the roadblock they were asked to get out of the vehicles and to sit on the side of the road. The vehicles were searched and the passengers were interrogated. After they admitted to being ANC members, the AWB soldiers stood in a line and fired at them, killing four and wounding another

staat for our boerevolk".

AWB members had been preparing for the revolution by stockpiling food, generators and weapons. Acting for the victims' families, advocate Robin Brink said the victims alleged that they had not been asked what their political affiliations were but that they were told that they were from the ANC

Asked if he was a racist, Mathews said it was not a question of racism. "We let a number of Inkatha Freedom Party members through. Our target was the ANC and SACP."

Mathews said he had told the judge in criminal proceedings that he had been drunk because he thought it would be a mitigating factor. "I was sober. I had only had one glass of neat whiskey," he said. The hearing continues today

Barnard claims he faces conspiracy

Stephané Bothma

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confessed to having shot Webster on May 1 1989.

"I believe that was the manner in which some of them came to their testimony against me," he said.

He also said that Language, Badenhorst and another girlfriend Brenda Milne had met after his arrest to discuss him.

They could have agreed to give incriminating evidence against him, the court heard

Asked by prosecutor Anton Ackermann whether or not Barnard would call convicted mass murderer Eugene de Kock to testify in his defence, Barnard said he did not know.

"In times like these, friends are few," Barnard told the court.

This followed a statement to the court by Ackermann that chief investigator Casper Jonker had contacted Barnard's close friend Calla Botha on Tuesday night, but that Botha "chose not to say anything".

Botha allegedly drove the vehicle from which Webster was shot with a sawn-off shotgun, the court earlier heard from witnesses.

Barnard's cross-examination continues today.

PRETORIA — Former Civil Co-operation Bureau agent and alleged murderer Ferdi Barnard claimed yesterday that members of the then Transvaal attorney-general Jan D'Oliveira's special investigation team were corrupt and had planted evidence against him.

Barnard, who has denied any involvement in the bulk of the 34 criminal charges against him, told the Pretoria High Court he believed there was a conspiracy against him.

Barnard faces charges ranging from the murder of Wits University lecturer David Webster, attempted murder of now Justice minister Dullah Omar, fraud, housebreaking and theft

He told judge Johan Els that three state witnesses (former friend Chris Ras, ex-wife Maryna Language and former girlfriend Amore Badenhorst) told him that members of the special investigations team had coached them in their testimony against him

"The investigations team showed them affidavits made by other witnesses," Barnard said in response to a question by the judge why it was that 11 witnesses testified that Barnard had

Painful road to SA healing

By Alan Martin

THE pain and raw emotion in Normande Calate's wail as she learnt the truth of what had happened to her husband at the hands of the security forces in the mid-80s is something Angie Kapellanus will never forget

"It was unlike anything I'd ever heard before," says Kapellanus, an award-winning radio journalist with the South African Broadcasting Corporation

"First she started crying," she recalls "Then it turned to wailing - echoing through the East London city hall. It was so guttural I still get goose bumps when I think about it"

Calate's husband Fort was one of four anti-

apartheid activists who were abducted, shot and burnt beyond recognition in the Eastern Cape by a hit squad of the old regime

Until the emotional stress became too great for Kapellanus, she spent two years reporting stories of horrendous abuse, torture and death which came to light at the Truth and Reconciliation Commission (TRC)

She now has trouble sleeping and, when she does, she sometimes wakes up crying. She is haunted by Calate's eerie wail and by her recollection of other heart-wrenching hearings

Her painful legacy is not uncommon among commission staff and those who regularly reported on the proceedings. Unlike other South Africans, who were able to switch off broadcasts and shut out the unfolding horror, they found no such escape

In many instances, the experience has led statement-takers, interpreters, investigators and journalists to become "secondary victims" - exhibiting symp-

ptoms similar to those associated with post-traumatic stress

"It's funny how people used to use the word 'coping' when really they had just found a place to compartmentalise their feelings," says Thulani Grenville-Grey, one of the four counselling psychologists working for the TRC

"Because they don't confront their feelings, the stress comes out in weird ways - usually physical"

Common symptoms

Kapellanus, for example, has spent considerable sums on physiotherapy for neck and back problems, and she recently consulted an acupuncturist

Other common symptoms suffered by those close to the hearings included nightmares, tempers raging irrationally, loss of libido, flashbacks, fatigue, feelings of incompetence and impotence, excessive smoking and drinking and inability to describe the experiences

While the commissioners themselves were not immune to anxiety,

Grenville-Grey says TRC staff had the extra burden of visits to atrocity sites and direct contact with the victims

He uses the analogy of an iceberg to explain their problems. "They only show a bit of themselves to the world - that they're happy and in control"

The stress is commonly displaced, and denial and scapegoating set in as defence mechanisms. The emotional burden can eventually creep up and manifest itself in a range of ways

Ms Larina Venter, an Afrikaans interpreter, found her "tongue going on strike" during an amnesty hearing for a former warrant officer who admitted to killing three activists

"I couldn't continue," she says. "I grew up terrified of terrorists. We trusted security forces to protect us. But never in my wildest dreams did I imagine that things like that were going on"

Former statement taker Ms Dudu Chibi, a mother and activist from Soweto, found it particularly hard to record evidence from child victims

She recalls the case of a 12-year-old girl who was raped, shot and hacked with a machete by hostel dwellers near Johannesburg

"This little girl would break down, and I couldn't hold back my tears," says Chibi. "I kept saying I had to go to the toilet because I didn't want to break down in front of her"

The TRC organised weekly group "debriefings", at which its staff would attempt to "chip away at the ice and normalise what they were experiencing"



TRC chairman Archbishop Desmond Tutu.

The sessions have now been scaled back as the hearings wind down. As the debriefings were voluntary, many people did not attend, preferring instead either to ignore the problem or find their own ways of coping to "cope".

"When I got home at night, I usually wanted to lock myself in and not talk to anyone," says Chibi. "Socialising was not my way of living. I just wanted to be alone to watch television or listen to music."

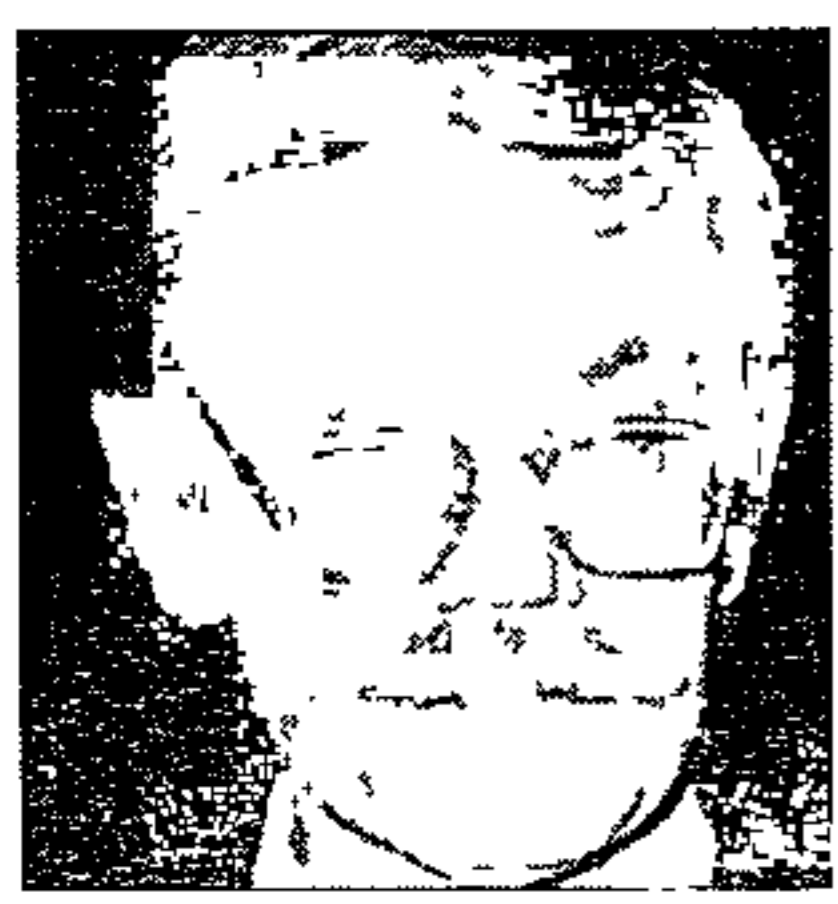
Gail Reagon, a former SABC journalist who now carries out publicity work for the TRC, admits "In retrospect, my way of living and managing it was the wrong way".

Her punishing work schedule led her to send her young daughter to live with her grandmother. Reagon is now beginning to thread her life together again. Her daughter has returned and she is getting her old routine back - "cooking, reading and moving the lawn".

Grenville-Grey sees this struggle as a reflection of the country's efforts to come to terms with its past. "If healing is going to happen, it's going to get worse before it gets better."

"Talk of the Rainbow Nation is a seductive notion, but it's not very real," he says - *Gemini News*

Wheelchair-bound Philipus Cornelius Kloppers struggles to hold a glass of water at the TRC hearing for nine AWB members. They are applying for amnesty for murdering four and wounding six others in 1993 in an attempt to disrupt South Africa's 1994 elections. Kloppers told the amnesty committee yesterday that General Constand Viljoen (inset) and Conservative Party leader Ferdi Hartzenberg (below) were aware of the decision to plunge South Africa into anarchy.



The anarchists

Viljoen and Hartzenberg plotted chaos in SA, TRC hears

GENERAL Constand Viljoen and Conservative Party leader Ferdi Hartzenberg had been aware and were part of the Afrikaner Weerstandsbeweging's decision to plunge South Africa into anarchy in late 1993 to prevent the first all-race elections in 1994, the Truth and Reconciliation Commission amnesty committee heard yesterday. AWB commander and former SA Defence Force member Philipus Cornelius Kloppers told the committee in Johannesburg that the decision to cause chaos was the result of Afrikaner leaders' conclusions that a revolution was at hand. They felt the National Party was going to hand over governance to a communist government led by the African National Congress. "At various meetings we attended with these leaders, including the AWB's Eugene Terre'Blanche, the message had been that the ANC, the

SACP (SA Communist Party) as well as Swapo were number one enemies, and any person found to belong to these parties had to be killed," Kloppers said. Kloppers and eight other AWB members are applying for amnesty for killing four people and wounding six others at a bogus roadblock between Krugersdorp and Ventersdorp in 1993. They claim they were instructed by the AWB to carry out the attack. Kloppers told the committee that preparations for anarchy in the country included an inspection of the SADF's stockpiling of arms, the theft of weapons found at SADF bases and the stealing of poisonous substances. Wheelchair-bound Kloppers testified that according to their plan, Viljoen would have ensured the takeover of certain army bases, while other leaders would, among other things, have occupied electricity

power stations and the SA Broadcasting Corporation to announce the takeover. Hartzenberg would have led a campaign to cause darkness throughout the country. "The objective was to take over South Africa completely to create chaos and despair and by so doing scare many people from taking part in the planned first democratic general election," Kloppers said. He told Judge Bernard Ngoepe and other commissioners that General Japie Oelofse was the mastermind of the AWB's Western Transvaal operation. Oelofse gave him (Kloppers) and his men arms and planned the operational plan for the area. Kloppers said that at various meetings with Oelofse the message had been very clear: "Shoot to kill", "I need more corpses" and "After each attack, cut off an ear and deliver it to me (Oelofse) as a sign of a mission accomplished and to boost the morale

(252) of other units". The delivery of an ear to Oelofse would also show other AWB establishments that the Western Transvaal unit was working, he further testified. Kloppers said on December 12, 1993, after a meeting with Oelofse, he led a team of AWB men to set up a bogus roadblock between Krugersdorp and Ventersdorp where "we were instructed to eliminate all ANC-SACP supporters". In that incident, four people, including a 13-year-old child, were killed and six others seriously injured. Kloppers said they left the scene believing that their victims were all dead but were surprised to learn on the morning television news the next day that some were still alive. He said that after the attack Deon Martin, also an amnesty applicant, cut an ear off one of the victims to hand over to the AWB leadership. The hearing continues - Sapa

After the TRC

By Claire Keeton
Feature writer

TRUTH COMMISSIONER Yasmin Sooka supports a call for the prosecution of torturers and murderers who have not applied for amnesty, and has emphasised that not only the foot soldiers who allowed these crimes should be prosecuted but also the politicians

She was one of an impressive line-up of speakers at a two-day conference in Johannesburg this week, organised by the Centre for the Study of Violence and Reconciliation (CSV) with the focus "From Truth to Transformation"

Sooka says the "intransigence of key persons" has contributed to a hardening of attitudes about reconciliation in communities that suffered most under apartheid "It does not help that key institutions are not transformed, this is widening the rift," she warned

Earlier Dr Mahmood Mamdani, from the University of the Cape Town-based Centre for African Studies, argued that the Truth and Reconciliation Commission (TRC) had fuelled divisions and a rising demand for justice, rather than reconciliation

He criticised the TRC for concentrating on victims and perpetrators, thereby allowing the beneficiaries of the apartheid system to avoid responsibility for their role in supporting the system

"The paradox is that the more outraged the beneficiaries feel (about individual perpetrators), the less they feel responsible. Not only do they experience no need for forgiveness, they see it as humiliation. This is the basis for growing outrage in the Afrikaner community," Mamdani said

"The other side of the paradox is that as more and more people feel no need to be forgiven, more and more (victims and survivors) feel forgiveness is undeserved. As the victims see complacency and callousness, there are more demands for justice. The TRC fuels what it sets out to avoid"

But Sooka was clear that prosecution would be a logical step against those who did not apply for amnesty

"Those who did not apply for

amnesty must be subjected to the rule of law. And despite negotiated agreements, certain people are not fit for public office," she said, supporting calls for the removal of perpetrators from public office

Many speakers underlined the need for transformation and economic justice in South Africa before there can be national reconciliation

"There can be little reconciliation if we remain the very deeply divided society we are," commented TRC vice-chairperson Dr Alex Boraine in his opening address

The TRC was seen as one vehicle for transformation in South Africa along with many others such as the National Youth Commission, Human Rights Commission and Gender Commission

"The TRC cannot and must not be seen in isolation," Boraine said "It is only one of the initiatives in transformation and growth. The best the commission can do is lay down building blocks through its report (due on July 31)"

Conference delegates made their own suggestions on how to take forward the transformation and reconciliation process, looking at the needs of victim-survivors and the steps that should be taken about perpetrators

Ongoing material and psychological support for the healing of victims was identified as a high priority by delegates, as well as the establishment of a long-term national reparations' fund

Exhumation process

Everyone agreed on the need for the exhumation process by the TRC to go on. The documentation of victims' history, and the need for centres and places of public remembrance, were also seen as important

The establishment of a "Year of Memory, History and Identity" was proposed as well as the inclusion of the TRC in a new education curriculum

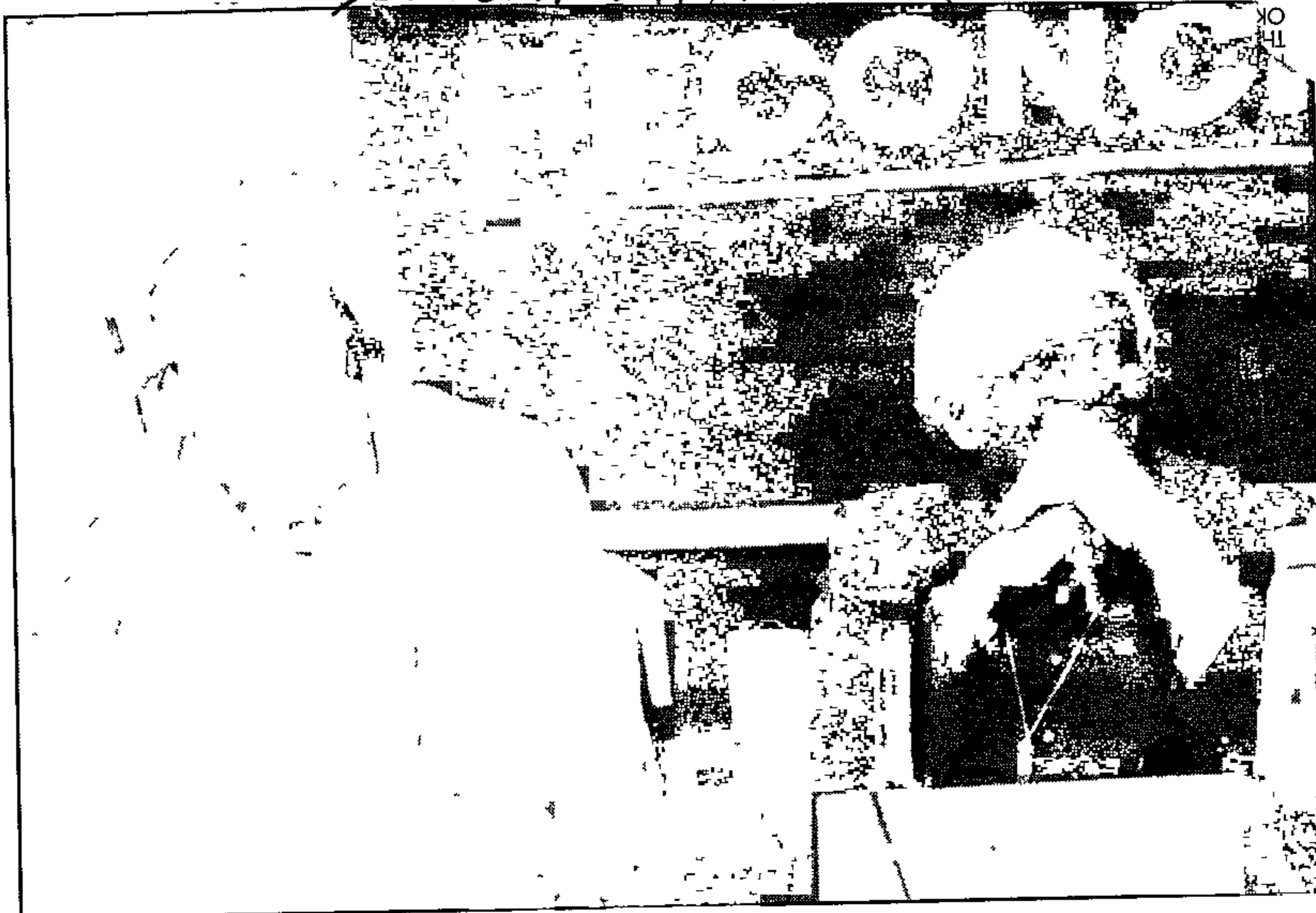
Access to information about the TRC was also seen as a priority "Victims and survivors must get feedback on how to organise reparations, and how amnesty decisions are made," said Brandon Hamber from the CSV

Delegates felt that victims should

TRC ... what then?

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TRC deputy chairman Dr Alex Boraine and chairman Archbishop Desmond Tutu.

be given assistance on how to appeal against amnesty decisions and they agreed that the amnesty process must not be extended indefinitely

Some delegates proposed that amnesty applications should be published and research projects which tracked atrocities should be sustained in future

"There should be ways to follow-up on those granted amnesty," said Eddie Makue from the South African Council of Churches, and suggested that perpetrators should get assistance in making personal reparations and have access to services

Delegates made the point that future prosecutions should be linked to the political and criminal violence of the present, and they stressed the need for prosecutions

Turning to reconciliation, delegates proposed a "clear focus which does not attempt to satisfy everyone" since individuals are then overwhelmed by the national objective

Young people were seen as key to the reconciliation process, starting at a school level NYC chairperson Mahlengi Bhengu said "We should develop programmes that relate to flashpoints and there must be a specific focus on building economic activity"

Delegates expressed concern about the raised expectations arising out of the TRC and supported initiatives in group counselling Makue highlighted the contribution that church, interfaith and cultural initiatives could make to reconciliation, particularly historically white churches

Ongoing work

A proposal was made for a management structure to focus on ongoing work on reconciliation, which was seen to be a long process affecting future generations

Member of Parliament Dr Blade Nzimande supported initiatives which would carry on aspects of the TRC's

work, but said the process should reach beyond the non-governmental sector

"There is no way we can take this forward without the active participation and even collaboration of political (formations)," he said

"Reconciliation is because of conflict and war arising out of political structures, it would be wrong to take this forward in depoliticised terms"

One of the failures of the TRC is its inability to persuade political leaders to accept accountability for the past, symbolised by former state president PW Botha's snubbing of the TRC

This lack of accountability, coupled with amnesty, highlights the flaws in the TRC process

"As important as the TRC is, it has made major compromises on justice and the protection of human rights," Jody Kollapen from the Human Rights Commission argued

"Post-TRC we must rid ourselves of this. We can't compromise on justice or human rights"

Triumph of love for gay mother

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Angella Johnson

Five-year-old Magriet is practising her ballet steps, twirling around the cane furniture in her living room, watched by loving parent Gertruida Greyling, and Hermien Oosthuizen.

The Brakpan lesbian couple celebrated a historic court decision this week when a judge ruled that their

sexual proclivities do not preclude them from bringing up a child

Greyling (30), who divorced her husband for his abusive and violent behaviour in 1996, lost custody of her daughter in January, when a social worker successfully applied to a magistrate to have the child removed into the care of her maternal grandmother.

"They said my relationship with Hermien made me an unfit mother

and that it would influence the child negatively," explains Greyling. "These people act as if being a lesbian is a contagious disease or something to be ashamed of. We should be judged on our parenting abilities, not our sexual preference."

She is bemused that in a society

where children are widely abused physically and sexually, a united and loving family unit can be challenged simply because the adults are of the same sex.

The Afrikaans couple had been living together since last September, but Greyling's mother only learned

about the nature of the relationship four months ago. Armed with religious fervour — she said the union was unholy — she spirited the child away to her home.

A social worker known by the grandmother through her church sanctioned the removal, on the grounds that Magriet (not her real name) was at risk from her mother's corrupting influence.

Greyling, a postal worker, believes her daughter is too young to be aware of what is happening. "She is happy that someone has come into our lives who is loving and caring."

The couple has not explained their lesbian relationship to Magriet because she has not yet asked any questions about their unusual lifestyle. "When she does, we will sit her down and let her know that we are different from most of her friends who have a mummy and daddy, but that she is very lucky to have two mummies."

Oosthuizen, a 32-year-old bank supervisor, says they have never tried to keep the relationship a secret. "We even told the nursery school and the teachers were very understanding

They even encouraged us to take the matter to court."

Prancing about the room, Magriet, her long blonde hair braided into two ponytails, suddenly lunges on to Oosthuizen's lap and bestows a big hug.

"See!" exclaims Greyling. "They are very close. I don't know where my ex-husband is, but he never gave her any love or affection, so it's good for her to have this attention." She explains that her marriage had been rife with shouting and fighting.

The National Coalition for Gay and Lesbian Equality has hailed the Johannesburg High Court decision to overturn the magistrate's order as recognising the validity of homosexual family relationships.

But Shifra Jacobson (44), who with her female partner adopted their two-year-old daughter when she was five weeks old, says there is still a lot of prejudice. "For starters, in our situation the adoption papers do not legally recognise us as a couple because only one of us can be the mother. So we do not have the same equal rights as heterosexual couples."

Jacobson works for the Institute of Child and Family Development at the University of the Western Cape and her partner is a clinical psychologist. They were the first openly lesbian couple in the Western Cape to legally adopt a child — who happens to be black.

"When we tell people we are mothers, they automatically assume the child belongs to just one of us. Actually, the lesbian issue pales into insignificance when compared to the difficulty they have grasping the fact that we are two white Jewish mothers and our child is from a different ethnic group."

Untying legal love knots, PAGE 40



Gertruida Greyling and Hermien Oosthuizen believe they provide a loving family for five-year-old Magriet. PHOTOGRAPH: RUTH MOTAU

Top investigator slams the TRC

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David Beresford

One of the former stars of the Truth and Reconciliation Commission's investigative team, Piers Pigou, this week delivered a savage critique of the inquiry, charging it with having failed lamentably in its task of uncovering the "truth" about human rights violations during the apartheid era.

Pigou, who will long be remembered for his tough questioning of Winnie Madikizela-Mandela before the commission, told a seminar assessing the effectiveness of the inquiry he felt "deep-seated distress that not nearly enough has been done to uncover the past". He said the commission had "only begun to scratch the surface of past violations"

He blamed the ineffectiveness of the inquiry largely on a lack of resources, pointing out, for example, that the investigative unit in Johannesburg has only 12 members to look into human rights violations in four provinces over a 34-year period.

But he also blamed a lack of direction: "Plagued by organisational, managerial and bureaucratic problems, enormous efforts

were inevitably wasted in attempts to get the investigative unit to operate as a unit and in a focused manner."

He complained about the difficulties of getting access to classified documents

"Controlled access to especially national intelligence and military intelligence by these very bodies is, I believe, unacceptable and has undermined the independence of the commission, especially as neither of these two agencies has been forthcoming about their involvement and responsibility for past abuses"

He was savage in his criticism of National Party leaders for their lack of co-operation with the commission, accusing them of having "acted in a despicable and cowardly manner, attempting at all costs to distance themselves from their criminal governance"

Pigou was particularly critical of the amnesty process.

Pointing out that the amnesty committee does not have its own investigative component, he said: "The vast majority of amnesty applications have not been subjected to an investigative process of any sort and most of the decisions, which have been made in chambers by the amnesty committee,

have resulted in rejection, on the basis that they did not meet the criteria set out in the Act

"As far as I am aware, most amnesty applicants were not informed of their right to legal representation and often applicants, who were not equipped to tackle the complex task of applying for amnesty within the context of the amnesty criteria were not in a position to adequately articulate a position which would merit further investigation and attention by the commission."

He also expressed concern that the commission had done little to uncover miscarriages of justice.

Evidence of torture and perjury by police — as well as testimony from attorneys general about how they were lied to by police investigators — made it probable that there were large numbers of innocent people who had been wrongfully imprisoned.

"The commission has laid an important foundation stone in the process of uncovering the truth," he said, "but thousands of questions remain unanswered and I would guess thousands of perpetrators remain unchallenged."

The seminar was organised by the Centre for the Study of Violence and Reconciliation.

'Dirty' Ferdi runs out of tricks

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Claire Robertson

Jacquies Pauw once wrote of Ferdi Barnard that his head "hopped like a rubber ball on his broad shoulders" while he smoked a crack cocaine pipe and confessed to killing Dr David Webster. That was some three years ago, when Barnard—a convicted killer, former narcotics policeman and dirty-tricks operative—was a cocaine addict.

This week, as he denied killing Webster—or ever making any confession to that effect—Barnard's head would still not stay still. Given that he is being held in the CMax maximum security prison during the trial, cocaine is not the likely cause.

It could be nerves. Barnard is already serving 10 years for stealing diamonds, and if convicted of the 34 murder, fraud and robbery charges facing him, he could be in jail for life. He is 39 years old. He has sat—or hunkered—in the dock for two months listening to 11 witnesses repeat to the court what they said were his own boasts about killing Webster.

This week he moved into the witness box to refute some very, very detailed accounts of what he allegedly said about the murder, where and when he said it, and even why.

And the judge does not believe he is telling the truth. He told him so on Tuesday. "Mr Barnard, you twist the truth to suit yourself." Barnard spent February and March glaring at witnesses—none of whom would meet his eyes—strutting his gangster walk during breaks and generally looming large.

Since Monday this huge man has shrunk a bit. When he denied culpability for Webster's death at the Harms commission eight years ago, he was surrounded by the *marne*, supported by defence force generals, lying in concert with his Civil Co-operation Bureau (CCB) colleagues.

During the Webster inquest in 1992 he sat shoulder to massive shoulder with death-squad colleague Calla Botha, lying or listening to the *marne* lie to the court.

At the the Harms commission and the inquest, his legal costs were picked up by the de-

to conform with other CCB statements, his back patted and ego stroked by covert cronies who needed him to shut up about what he knew.

Now he is alone, his father the only supporter who comes to court every day.

Barnard spent enormous energy helping Vlakplaas boss Eugene de Kock during his trial, all but managing the cross-examination of turncoat spooks via notes to lawyers. But he is not sure De Kock will return the favour.

The Vlakplaas killer—now a fellow CMax prisoner—might be called by the defence, but as Barnard himself said this week, friends are few when one is "contaminated".

Calla Botha, now a successful Rooedeport businessman, flatly refused to get involved this week when the investigators asked him to clarify a detail. Botha is Barnard's alibi for the day Webster died.

Until Tuesday, Barnard did not have an alibi, he remembered nothing about the day except that he did not start it by killing Webster.

By implication he did not dress in a blond wig, get into a car with Botha, drive to Webster's Troyeville home that he had been monitoring for months, spot Webster outside of flooding plants from his bakke.

He did not fire at Webster from the car with a short-barrel shotgun of the sort he had recently tested for accuracy from a moving vehicle, did not hit Webster in the chest and watch him "fly through the air".

He did not listen to Webster's lover, Mag-gre Friedman, scream "like a struck pig", did not change cars a block away.

This is the sum of what journalists, policemen, crooks, ex-wives and lovers have told the court, saying they were repeating Barnard's own version of events.

Since Tuesday, Barnard is asking the court to believe he has now remembered he was out jogging with Botha that morning.

As he says this, and as senior state advocate Anton Ackerman—the man who nailed De Kock—smiles a chilling smile at him, Barnard's head bobs its crazy rhythm.



Ferdi Barnard: 'Contaminated' and alone. PHOTO: STEVE HILTON-BARBER



Still waiting . . . for many shack dwellers the prospect of a decent home to live in remains a distant dream

By **CATHY POWERS**

The criminal justice system was probably the area that most urgently needed transformation after the advent of democracy in 1994, as it was the key instrument through which apartheid was enforced

The pillars of the old order – especially justice which institutionalised apartheid – had to be transformed into an accountable structure

Change has been slow but there has been some success. It has taken Justice Minister Dullah Omar two-and-a-half years

Wheels of justice slowly getting onto democracy track

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to unify 11 racially-based departments, with different legal systems, into one with representative management

Some critics say the judiciary and the bulk of the prosecution staff remain white and male, the backlog in courts is still intimidating and the conviction rate of 72% is unsatisfactory

The Justice Department is now decentralising its administrative offices and opening regional offices, to bring jus-

tice closer to the people, says Omar. And after the release of the department's bible for transformation, Justice Vision 2000, pilot projects to make criminal courts and justice more efficient have begun

But is the public seeing these changes and is justice now cheap and accessible to everyone, as the 1994 election manifesto promised?

This is a long way off, according to Lawyers for Human Rights director Dr Vinodh Jacc-

hand. He believes an effective legal aid board is central to making this a reality. Legal aid in the former TBVC states is still non-existent, leaving people there with no recourse to justice. And 80% of children going through the courts in urban areas still have no legal representation

"Although the criminal justice system is more representative of the general population, this has not translated into benefits for the people," says

Jachand. One of the central criticisms about justice has been that legislation does not equal action. "You can create the best laws in the world, the laws are there but they are not implemented," says Jachand

Much of this blame has to be laid at the door of the police, key implementers of the law. They are still perceived by the public to be inadequate and this failure to deal with crime has offset the criminal justice system's partial success in ori-

enting itself around human rights, says National Association for Democratic Lawyers spokesman Krish Govender

The Government highlights the demilitarisation of the police force and the inculcation of a human rights in the force as of its achievements. And, while the public remains sceptical of this, the authorities insist that the rise in crime, which accompanied the post-1990 transition period, has now been stemmed. SA Police Services CEO Meyer Kahn has even predicted that SA would be one of the world's safest cities within three years

Irregular hours saved Omar's life

NORMAN CHANDLER

PRETORIA - Justice Minister Dullah Omar narrowly escaped death at the hands of the Civil Co-Operation Bureau (CCB), the High Court here heard yesterday.

He escaped because Operation Omar, which had been given a "priority" rating, was bungled. Ferdi Barnard, accused of murdering Wits activist Dr David Webster in 1989, told Mr Justice Johan Els yesterday how plans were laid for Omar to be shot at his Rylands Estate home.

"It was made 99% definite to me that all the preliminary work had been completed and all that was needed was for Omar to be murdered," Barnard said. But, unwittingly, Omar frustrated the CCB by never keeping regular hours.

"The CCB had given the operation priority and there was co-ordination at all levels as to exactly how Omar was to be shot," Barnard said.

The trial continues

AWB plot to poison Soweto

(2/12) or 24/4/98

JOHANNESBURG: The Afrikaner Weerstandsbeweging wanted to poison Soweto's water reservoirs with cyanide in 1993 to kill thousands of people as part of the right-wing organisation's programme to create chaos before the 1994 election, the Truth and Reconciliation Commission heard yesterday.

AWB commander Mr Philippus Kloppers was testifying before the TRC's amnesty committee here in his application for amnesty for the murder of four black people and the wounding of six others at an AWB roadblock between Krugersdorp and Ventersdorp in 1993.

Kloppers said Afrikaner leaders, who at the time saw a revolution at



hand, feared their people would be subjected to communist rule led by the African National Congress.

He said he had been ordered by AWB "general" Mr Japie Oelofse to steal cyanide from a chemical company he worked for and pour it into Soweto reservoirs. He stole the cyanide but never carried out Oelofse's order.

The poison was found in his car when Kloppers was arrested for the roadblock shootings.

Kloppers' testimony centred on how AWB members were indoctrinated to hate blacks, especially those belonging to the ANC. They were told to regard ANC supporters as enemies of the Afrikaner.

At that time the National Party, the ANC and several other political parties were in multiparty talks at the World Trade Centre in Kemp-ton Park.

A video showing AWB leader Mr Eugene Terre'Blanche addressing a public meeting in Port Elizabeth was shown to the commission.

Terre'Blanche told the gathering on November 26, 1993 to "go out and steal weapons. Attack, attack and attack until we achieve our objectives".

Kloppers said Terre'Blanche's message at several meetings in the months ahead of the election was so inspiring and influential that "after attending such a meeting one could actually kill one's (black) domestic worker". — Sapa

IFP protest at truth hearing

RICHARDS BAY — Inkatha Freedom Party (IFP) women protested at the truth commission's hearing in Richards Bay yesterday.

About 50 widows and orphans of IFP members killed in violence arrived at the grounds of the Zululand Chamber of Business and demanded to meet the commission amnesty committee.

They were stopped by a large police contingent, strengthened by reinforcements from Durban after the threat by the IFP on Wednesday to disrupt the hearings.

The delegation, led by Faith Gaza of the IFP Women's Brigade, said that they did not intend disrupting the hearing, but warned there could be problems if they were "pushed aside".

Dressed in black, the women carried placards saying "TRC tells lies" and "TRC the ANC's Imbongi (praisesinger)".

Amnesty committee chairman Judge Selwyn Miller agreed to allow the women to give it a memorandum listing their objections.

About 20 minutes later, the women entered the hall amid tight security and handed over their memorandum which expressed concern that the truth body was not taking into account IFP deaths in KwaZulu-Natal violence.

They then left quietly. The audience, who had been listening to the amnesty pleas by seven IFP hit squad members, sat in silence.

People at the hearing were searched for guns. Sniffer dogs checked the premises. — Sapa.



T&N Holdings Limited

(Reg no 71/12146/06)
("the Company")

Result of capitalisation share award and election to receive instead a final cash dividend of 19,0 cents per ordinary share

Nedcor Investment Bank is authorised to announce that further to the results announcement published in the press on 17 February 1998, elections to receive a final cash dividend of 19,0 cents per ordinary share were made in respect of a total of 3 418 044 ordinary shares in the Company resulting in the declaration of a total dividend of R651 256,41

As a consequence of the foregoing, 686 171 new ordinary shares out of a possible total of 792 966 new ordinary shares are to be issued pursuant to the capitalisation share award, being an 86,5% acceptance of such award.

Accordingly, the issued ordinary share capital of the Company has increased by 686 171 new ordinary shares from 25 450 613 ordinary shares to 26 136 784 ordinary shares

Listing of new ordinary shares

The Johannesburg Stock Exchange ("the JSE") has granted a listing from the commencement of business on the JSE today of the 686 171 new ordinary shares issued in terms of the capitalisation share award.

Posting of share certificates and cheques

Share certificates in respect of new ordinary shares and cheques in respect of dividends and/or payments in lieu of fractional entitlements to new ordinary shares will be posted to the relevant shareholders today

24 April 1998

Investment bank



NEDCOR
INVESTMENT BANK

Sponsoring broker



HSBC Simpson McKie

Member HSBC Group
HSBC Simpson McKie (Pty) Limited
Member of the Johannesburg Stock Exchange
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INCC

tion of the special resolution necessary to facilitate such a trans-

Year ended 28.02.97

Year ended 28.02.98

COMMENT & ANALYSIS

'Boers' tired of reactionism in their name

Insulting the work of the truth and reconciliation commission is also an insult to many South Africans, writes Max du Preez

(252) 00 2414/98

POOR Ruan Malan. It must be tough to make a living writing about SA for the British and the Americans now that we have become just another boring nation engaged in the mundane activities of trying to survive and prosper.

It must have been like an unexpected bonanza to him when a Benoni smallholder shot a black baby in the same week as former president PW Botha stood before a magistrate in George Volia! Suddenly a pattern emerges which is analysed on the pages of the British newspaper, the Sunday Telegraph.

To use Malan's own words in the piece, carried in Business Day this week we Boers are terminally fed up. Fed up with people like Malan trading on an Afrikaans surname to inform the world of how "Afrikaners" feel and think, marketing his objectionable brand of reactionary analysis overseas authenticated only by his claims to Afrikaner roots.

It is true that the killing of the Benoni baby and the killing of a Roossenekal farmer during the same week did cause some red lights to flash. But the real story was not Malan's angle of we are "more divided than ever", or that "the rainbow nation was an advertising gimmick".

The real story was, in my view, that at the two funerals conservative Afrikaner clergymen and none other than Wynne Mankizela-Mandela warned against a simplistic racial analysis of what had happened. The press was not "affluent with racial malice" — the press was full of soothing voices, of concern at the apparent rise in racial incidents.

In fact, the most moving story about baby Angelina was the tearful and emotional visit the parents of the alleged killer paid to the baby's parents after the funeral. Angelina had virtually spent her few months in their home.

Malan's third pillar for his master analysis of the state of our nation, Botha's appearance in court after he refused to appear before the truth commission, is the weakest.

Malan sees the presence of former defence force chiefs Magnus Malan, Constand Viljoen, Kat Liebenberg and Jannie Geldenhuys, of Conservative Party leader Ferdi Hartzenberg and the former cabinet minister Lapa

Munnik at the court case as being "a display of unity" not seen since 1979.

The rest of us journalists who actually went to the court case saw the absence of any current National Party leader or Afrikaans cultural, religious or community leader as highly significant.

We also thought the fact that the Freedom Front could not muster more than half a dozen protesters

countrywide was saying something about Botha's standing. It struck us that the good Afrikaner people of George and the Wilderness, whom Botha had served as MP for almost 50 years,

showed no interest in the case. We noted that there was not a trace of racial tension or intolerance in the town despite the two thousand African National Congress supporters who were toy-toying up and down the main street.

The truth about Botha is that the vast majority of the Boers' grudge behind our hands at the old man's antics Some of us feel deeply embarrassed at the spectacle, others feel resentment because he does the same thing as Malan does speaking on behalf of Afrikaners — "my people". Some of us rather enjoy him giving the truth commission hell, but wonder why he thinks he is more important than Magnus Malan or Constand Viljoen or Pk Botha or Adriaan Vlok, who have all been before the commission. And some of us quietly wish he would be sent to jail as a symbol



Truth and Reconciliation Commission chairman Archbishop Desmond Tutu

Malan's analysis? "Afrikaners stood up behind him, as if cheering a rugby try". It is important to note that probably more than 90% of the soldiers and policemen applying for amnesty to the truth commission committed their political crimes between 1980 and 1990 — Botha's reign.

The St Andrews Fault of the Malan analysis, like so many of the neoreactionaries of the Herman Gillhorne School, lies in his reading of the history leading up to the negotiations of the early 1990s. I am sure it helps some white minds to think of the 1980s

as a "low-grade civil war" and cynically play with terminology such as "belligerents". But the truth is actually fairly simple. The black majority's frustration at their oppression and humiliation started boiling to the surface in the late 1950s and early 1960s, but was efficiently and brutally crushed by the state. It intensified the frustration. A similar cycle followed in the years after June 1976.

The ANC's response was a three-pronged resistance: internal mobilisation and uprising and a low-key

armed struggle. Most South Africans refer to these combined strategies as "the liberation struggle" or just "the struggle".

Most South Africans and indeed the entire international community, saw it as a just war against a system which was officially labelled a crime against humanity.

Yet Malan refers to it as "the conflict" and to the ANC as "the belligerents". He describes himself as one of those "who believe we attained a certain nobility in 1994 by surrendering power to a mistrusted enemy in the interests of common progress". Astonishingly, he goes on "a gesture for which we have received little or no thanks, deterring services and training crime".

His whole premise implies that the two "sides" were morally equally justified. He is one step away from saying "Vlakplains head Eugene de Kock and former SA Communist Party leader Chris Ham should be viewed with equal veneration as the two honourable heroes of the two sides. Yet virtually everyone in SA despises De Kock, while Ham died as a leader who was respected even by most whites.

No wonder Malan does not like the truth commission much. But it does not excuse his outrageous insults to a body respected by the vast majority of South Africans. And his falsehoods and half-truths dished up to a foreign readership parents demanding justice for sons who vanished in ANC

camps being "told to shut up", soldiers greeted by "rolling eyes and mocking laughter". I have been involved in the making of 80 documentaries on the truth commission over the past two years and attended many dozens of hearings. These two statements are blatant lies. As far as my colleagues and I know, Malan attended only two truth commission hearings: the one dealing with Madikizela-Mandela and her Football Club, and the special hearing on the media.

The truth about the truth commission is that since June last year, the commission has been concentrating on amnesty hearings. Independent judges chair these hearings, not truth commissioners. So the revelations coming from the truth commission over the past year all came from the mouths of the perpetrators themselves. How does "this" get into the picture?

Malan says the truth commission "has left us more divided than ever". If Malan had attended some of the utterly moving sessions of the human rights violations hearings, or some of the amnesty hearings where perpetrator met victim or survivor, he would not have said that. It is an insult to the thousands of people who brought their stories to the truth commission and went home with some relief — and a greater capacity to forgive their former oppressors and welcome them back into the SA nation. That is what reconciliation is about, not "falling into each others' arms", as he calls it.

The truth commission process is bigger than the truth commission and its commissioners and staff. It is a process of the people of this country. We are making it work, not the commission. Insulting the process is insulting the people of this country and particularly those who suffered to bring us all democracy.

If one did not see Malan's name above his article, one could have sworn it had been written by Rhodesia's Ian Smith. Or perhaps columnist Jean Allan.

Malan should have listened to the wise words of his former leader, FW de Klerk. "Afrika is nie in plek vir sissies nie."

Max du Preez is a journalist with the SA Broadcasting Corporation and executive producer of its special reports on the truth commission.

TRUTH COMMISSION

AWB 'planned to poison Soweto's water supply'

THE Afrikaner Weerstandsbeweging (AWB) wanted to poison Soweto's water reservoirs with cyanide in 1993 in order to kill thousands of people as part of the rightwing organisation's programme to create chaos ahead of the 1994 election, the truth commission heard yesterday.

AWB commander Philipus Kloppers was testifying before the commission's amnesty committee in Johannesburg in his and eight other AWB member's amnesty application for the murder of four people and the wounding of six others at an AWB roadblock between Krugersdorp and Ventersdorp in 1993.

The wheelchair-bound Kloppers said Afrikaner leaders, who at the time saw a revolution at hand, feared their people would be subjected to communist rule led by the African National Congress

(257) MO 24/4/98

after the election. Kloppers said he was ordered by AWB "general" Japie Oelofse to steal cyanide from a chemical company he worked for in Randfontein and pour it into Soweto reservoirs. He stole the cyanide but never carried out the order. The cyanide was found in his car when he was arrested for the roadblock shootings.

During cross-examination, Kloppers appeared unsure of his earlier claim that he was ordered by Freedom Front leader Constand Viljoen and Conservative Party leader Ferdi Hartzenberg to cause chaos in SA.

He said yesterday the order came from Oelofse, the AWB's operational chief in the then Western Transvaal.

Asked whether the order to set up the roadblock to kill ANC supporters came from Viljoen, Klop-

pers replied: "I think that the order to kill on December 12 1993 was cleared with General Viljoen." He said he implicated Viljoen on the basis of information he received from Oelofse.

"But I still maintain that I received my orders to sow anarchy in SA from Gen Oelofse ... And I still believe that both Gen Viljoen and Hartzenberg had been consulted on the issue and had endorsed the plan"

A video showing AWB leader Eugene Terre'Blanche addressing a meeting in Port Elizabeth in November 1993 was shown to the commission.

In the video clip, Terre'Blanche told a rightwing gathering to "go and out and steal weapons. Attack, attack and attack until we achieve our objectives."

The hearing continues today —Sapa.

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Omar assassination offer 'a joke'

Stephané Bothma

PRETORIA — Ferdh Barnard was approached on several occasions to assassinate people for cash, including a police colonel for R100 000, Barnard told the high court yesterday.

The former Civil Co-operation Bureau (CCB) agent was offered R50 000 in 1989 to shoot the Dullah Omar, now justice minister, the court heard.

"The offer was made by another CCB agent, Slang van Zyl, but was only a joke," Barnard testified in his own defence in the trial in which he pleaded not guilty to 34 charges ranging from the murder of Wits university lecturer David

Webster to fraud and theft.

Barnard, who was sent to prison in the early 1980s for killing two drug dealers and who joined the SA Defence Force's special forces after his release in 1988, told Judge Johan Els that since leaving prison, he had been approached by several people to commit crimes for them, including murder. He said he had not accepted any of the offers.

He had been offered R100 000 to murder Col Luke Enslin. He had also been asked to destroy police evidence and dockets and to discredit witnesses.

When asked by Van Zyl to eliminate Omar, Barnard said he responded by saying he had learnt

his lesson "I will never again shoot anybody, not even with a catapult," he had said. He was aware, though, of a CCB plan to kill the anti-apartheid activist at his Cape home.

"The Omar project had been planned and approved by the top structure of the CCB. Everything was ready, all the administration had been done. Omar only had to be shot to complete the project," Barnard testified.

He told the court that because of the irregular hours Omar kept — at the time he was practising as a lawyer — it became impossible to carry out the assassination.

Barnard's cross-examination continues today.

Barnard tells of spending sprees, cash gifts

Pretoria - The Pretoria High Court yesterday heard how former Civil Co-operation Bureau operative Ferdi Barnard and his girlfriends suddenly started "throwing around money" in the weeks after two alleged fraudulent transactions.

Facing a fourth day of cross-examination by State prosecutor Anton Ackermann, Barnard admitted that although he was almost bankrupt and being sued by creditors in April 1992, he had earned R180 000 by August that year.

Barnard claimed the man who was once his close friend, Corrie Goosen, misled him and unwittingly involved him in fraudulent diamond transactions.

In some of the transactions, diamonds supplied by the police were used, although he was not aware of it at the time, said Barnard. He claimed he supplied "security

services" for Mr Goosen during several illegal transactions, but that Mr Goosen never told him some of these transactions would be "knocks", during which "buyers" were conned out of their money.

A further claim made by Barnard was that Mr Goosen either shot himself in an arm or that he got somebody's help to shoot him during one of these sting operations.

State witnesses have testified that Mr Goosen was never shot, but that a wound on his arm was faked so he could pretend to diamond buyers that their money had been stolen in an armed robbery.

Barnard said that at one stage he stored Angolan kwanzas for Mr Goosen, and asked girlfriend Amore Badenhorst to help, but denied he was part of a scheme in which Pretoria attorney Evadne de Jager was conned out of R200 000.

(252)
Ms De Jager testified that Mr Goosen and Barnard not only conned her and a client, but destroyed her life by having her arrested and prosecuted on trumped-up fraud and theft charges.

She has instituted a R15,4-million damages claim against the ministers of safety and security and defence, as well as against Mr Goosen and Barnard. Barnard agreed with Mr Ackermann that cash seemed to start "flowing in" the day after Ms De Jager was conned out of her money.

His live-in lover at the time, Brenda Milne, paid more than R27 000 into various bank accounts in the days after the deal and started paying off debts. And Barnard bought his other girlfriend, Ms Badenhorst, a R28 000 luxury car.

He said Mr Goosen paid for air tickets for him and two women for

AKG 25/4/98

an all-expenses-paid holiday to Durban after the De Jager transaction and also gave him R30 000 on their return, but claimed the rest of his money was earned honestly through debt collections, private investigation jobs and working for casinos and clubs in Johannesburg.

He said he could earn up to R65 000 a month from his casino work.

He agreed with Mr Ackermann that two days after an alleged scam in which diamond prospector Benjie Hoepfner was conned out of R1-million, Ms Milne bought an expensive video camera for cash.

A week later, Barnard bought a car for R80 000, for which he also paid cash and, shortly afterwards, he gave Ms Milne R15 000 for a holiday.

The trial will resume on Tuesday, when Mr Ackermann is expected to finish cross-examination.

Bar council 'too white' for black advocates

YVETTE VAN BREDA

BLACK advocates walked out of a Bar council's annual general meeting this week, saying they wanted nothing more to do with the "white-dominated" council or its substructures

Nineteen black advocates affiliated to the Cape Bar decided unanimously on Thursday not to participate in the AGM, any Bar council elections or any of the Bar council's committees or sub-committees, "until the interests of all advocates were represented fairly and equally"

Norman Arendse, a spokesman for the lawyers who walked out of the AGM after handing over a memorandum, said unhappiness with the Bar council was widespread and would be articulated at a national level

ST 26/4/98
In its memorandum, the group said the Cape Bar council, which had more than 200 members, was dominated by white males and needed to be transformed

"We also want to arrange a meeting with the Justice Ministry. This is the beginning of a difficult process, and we are not going to allow the Bar council to rush us," Arendse said

The advocates pointed out that attorneys had formed a unified law society recently and there was no reason why advocates could not do the same

Nathan Erasmus, another of the 19, said it was the first time that black advocates had banded together and decided "not to be token dark faces and not to stand for elections until we see real transformation"

The white domination of the Bar was also reflected in the composition of the High Court

(252)
Bench, the advocates' memorandum said

It said that large numbers of litigants were black, while major corporations and public bodies, often powerful players that shaped society, were served mainly by white advocates

Arendse said the group had appointed a committee to represent it in discussions it hoped to begin soon with the Bar council.

Another black lawyer in the group said their action should not be seen as an isolated one, but as part of the negotiations between the National Association of Democratic Lawyers, the Black Lawyers' Association and the General Council of the Bar to transform the legal profession

Neither the chairman of the Cape Bar, Jeremy Gauntlett, nor the chairman of the GCB, Peter Hodes, could be reached for comment yesterday

Murder case against A

By **DESMOND BLOW**

THE GAUTENG Attorney-General may be forced to prosecute Eugene Terre'Blanche and "General" Japie Oelofse of the Afrikaner Weerstandbeweging for the murder of four blacks - including an 11-year-old child - if the Truth and Reconciliation Commission accepts the evidence of nine jailed AWB members.

The nine, including several members of the AWB high command, are testifying before the TRC in Johannesburg in an amnesty application. They claim the brutal slaying of four blacks and the wounding of six others, including two children, at a bogus roadblock they set up on the Ventersdorp Kruger road in December 1993 was done on the instructions and incitement of Terre'Blanche and Oelofse.

Both leaders have denied the allegations and neither has applied for amnesty for any "political" crime and as the cut-off date has passed, it is too late to do so.

If the TRC finds that the murders were committed on instructions as alleged, the attorney-general could be compelled to prosecute the two leaders.

□ Judge D Marais found that the murders were racial and rejected the claim that the killers were influenced by their leaders.

He sentenced six of the nine to death but their sentences were commuted to life when the ANC government banned hangings.

The judge found that the killers displayed no remorse and said it appeared they were more concerned about the consequences their actions had for them.

He said the "mass and unprovoked" way in which the victims were gunned down could not be overlooked, and that the murders had been racially motivated was "an aggravating factor".

"I have no words to describe the evianness of this deed. People were shot simply because they were black. What sets these murders apart from most murders is the number of people - including children who were fired at. It was a simple execution," he said.

The nine men, pretending to be policemen, stopped vehicles carrying blacks on the night of December 12, 1993 and assaulted them before shooting them and setting their cars alight.

The judge said it was a gruesome act that led to unending pain and bitterness. Many families were broken up. Two young men on the brink of successful careers were killed, an older man's ear was cut off while he was still alive, a child was murdered and the lives of those who were injured were destroyed. They couldn't work any more and their families were suffering.

The leader of the nine, Hoofkommandant Phil Kloppers, this week told the TRC he had cut off the victim's ear to give to Oelofse as he had been commanded to do to show that the mission had been accomplished.

But Oelofse, through an attorney, denied he had given instructions to Kloppers. He said he had chased him away from his home and had refused to accept the ear in a plastic bag that Kloppers brought him.

Kloppers maintained he was not chased away and that he had left the ear with Oelofse.

A Wits Technikon student, David Shabangu, had described to the court the honour attack by the AWB members on him and two other students when their car was stopped at what they thought was a police roadblock. He said the AWB members accused them of being ANC members and assaulted them with batons and gun-butts. He said he heard gunshots and saw a child falling forward with his hand behind his head.

He said his car was burnt and one of his student friends lay dead.

Kloppers, who was operational chief of the AWB in the Western Transvaal, told the TRC they had been ordered to disrupt the 1994 democratic elections.

He said Oelofse had also ordered him to steal cyanide from a chemical company he worked for in Randfontein and pour it into Soweto reservoirs. He said he stole the cyanide but did not carry out Oelofse's orders to poison thousands of Soweto residents.

When Kloppers was arrested for the roadblock murders, the cyanide was found in the boot of his car.

Earlier he and some of the other applicants had claimed that AWB leader Eugene Terre'Blanche had incited them to kill.

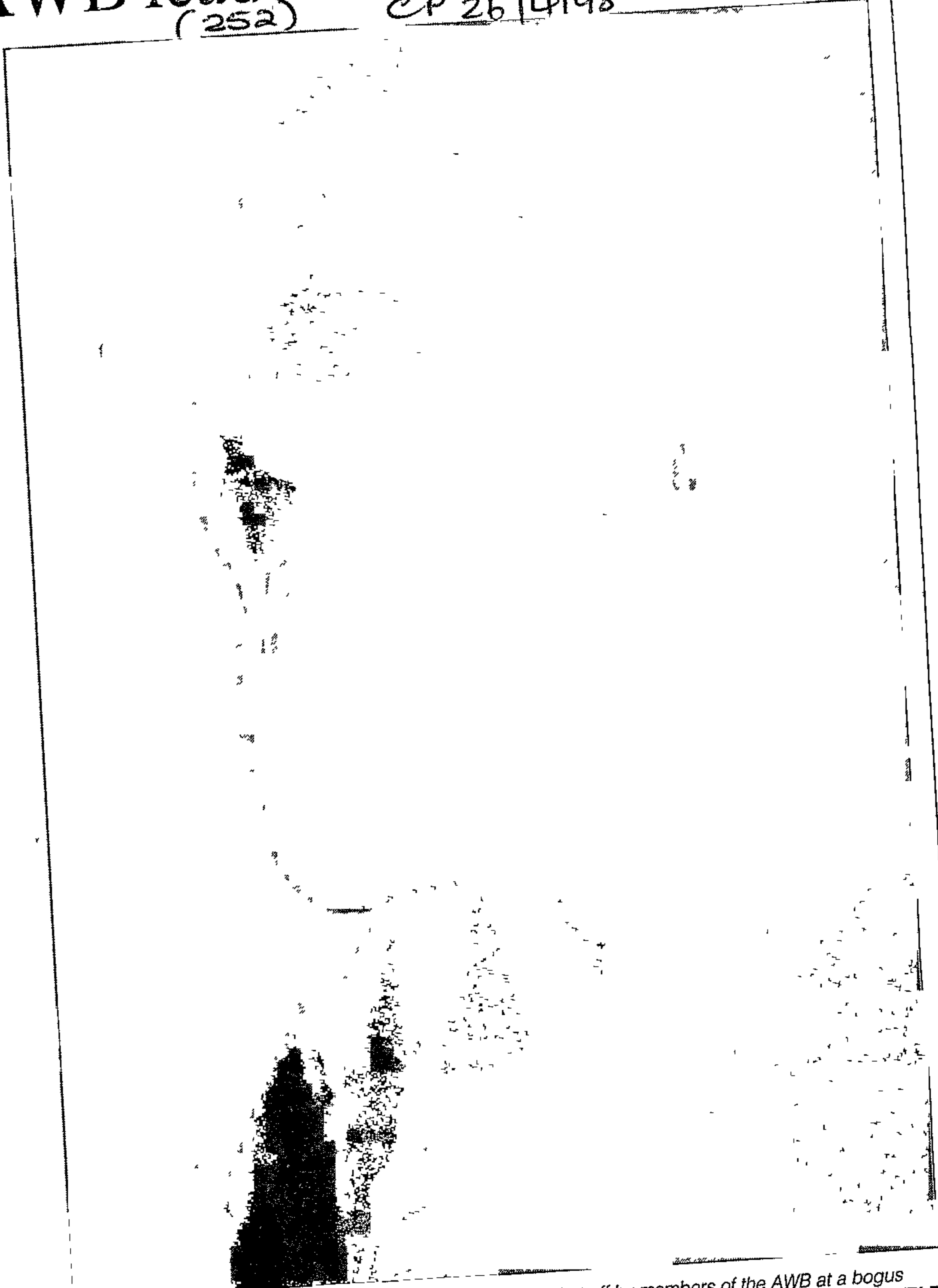
Kloppers said Terre'Blanche's message at several meetings in the months before the elections was so inspiring that "after attending such a meeting one could actually kill his black domestic worker."

The TRC hearing continues in

AWB leaders is in TRC's hands

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DISFIGURED BY THE AWB ... A victim who had his nose shot off by members of the AWB at a bogus roadblock in December 1993 listens to their pleas for amnesty before the TRC this week **■ Pic: BEELD**

Uncle Bob offers an alibi for Nkabinde . . .

By CHRIS HLONGWA

EXPELLED ANC leader and multi-murder accused, Sifiso Nkabinde, could be forgiven for looking a bit happier on

Friday when a top Gauteng businessman came to testify in his defence at the Pietermaritzburg High Court.

Bobby Molefe, a businessman who has been general manager of three top Johannesburg hotels, told the packed court he was Nkabinde's uncle - and had put up his nephew in one of the hotels on the day the Midlands warlord is accused of having ordered the murder of ANC Youth League chairman Mzwandile Mbongwa, secretary Mla Ximba and Mzo Mkhize on March 19, 1994.

"I would have not come here if I had receipts relating to the accused's stay at the hotel but I put him up in the rooms allocated to me as an entertainment allowance," said Molefe.

He said he had invited Nkabinde and his wife to attend a traditional feast to honour his father and mother who had died one after the other.

Causing some laughter in court, Molefe suddenly left the witness stand to fetch his diary from his big briefcase without asking the court's permission to do so.

The diary, he said, contained "important dates" the date of the feast and other matters like a holiday he had had in Durban

Judge Combrink could not hold back laughter himself when the well-spoken executive said one of the important dates in the diary was when he had an argument with his wife.

Molefe, who was called by the defence, said Nkabinde should be punished if guilty but he was not going "deny a man the truth" that he had

been with him on the day of the murders - even if there had been all sorts of allegations and threats, he said

Asked by the judge if he had been threatened, he said no - but he had "read a lot about these things in news-

He denied them all - and also denied he had been in charge of the feared self-defence units that were linked to countless murders in Richmond during the 1990s

He said he had, in fact, helped police to solve crimes in the area. He agreed there was a sharp increase of violence after he was expelled from the ANC (amid spy allegations) last year, but said the fighting was between ANC members who opposed his expulsion from the party and those who wanted him out.

"I tried to find out who were the culprits. I initiated many meetings with Ragavalo (the ANC mayor) but he refused, saying they would not talk to criminals," said Nkabinde

Meanwhile, police spokesperson Henry Budhram said it was quiet in Richmond yesterday after several incidents of violence had raised temperatures this week.

A soldier and a policeman were attacked in separate incidents in townships surrounding Richmond

The soldier was shot at near the Magoda home of the Midlands strongman. He fired back before fleeing in his vehicle

The Indaleni home of Constable Thulani Mchunu, who had earlier testified in the Nkabinde trial and who was again mentioned in court on Friday

last week, was attacked in the early hours of last Saturday.

The windows of Mchunu's home and that of his neighbour were broken in the attack

People have demanded more security after the incidents and after hearing shots in the townships every night. A strong police and army presence, is being maintained, said police spokesperson Budhram



GLAD TO SEE HIS UNCLE . . . Sifiso Nkabinde was smiling in the Pietermaritzburg High Court on Friday when Bobby Molefe testified in his favour

papers".

After Molefe's testimony Nkabinde was visibly delighted and during an adjournment he smiled, waved and gave the thumbs-up sign to his supporters in the courtroom.

Dressed in an immaculate dark suit, he had been cross-examined by State Counsel Chris de Klerk on the 16 charges of murder and two of incitement to murder against him

Remorse, truth (252) will heal S Africa

By Claire Keeton
Feature Writer

‘WE AVOID the words ‘reconciliation’ and ‘forgiveness’ in our association,” said Ms Esther Mujawayo from the Rwandan Association of the Widows of Genocide

“But we are trying to make sure our memories are kept alive. Even if it’s bitter, we say ‘Let’s talk, not cover up’”

Mujawayo was one of the international speakers at a conference evaluating the Truth and Reconciliation Commission (TRC), organised by the Centre for the Study of Violence and Reconciliation (CSV) last week.

In April 1994, when South Africa was celebrating its first democratic election, the killings in Rwanda got worse – leaving one million people dead.

Mujawayo lost her husband, her parents, his parents and her siblings between April and June that year.

She had no loved ones left. “We were condemned to live. We wanted (the killers) to find us but they didn’t. We just wanted to die.”

She described the betrayal of seeing everyone – doctors, priests, mothers and children from all social classes – taking part in the killing.

“We couldn’t trust anyone, we had seen the worst in everyone.”

Rediscovering humanity

Mujawayo said their first step towards reconciliation was rediscovering their own humanity. “Reconciliation started with ourselves, and if we want it in our society we must be sure everyone is ready to engage. Reconciliation must work both ways.”

Her perspective underlined several problems in the TRC process, which were also raised by other speakers. One of these is the problematic assumption that reconciliation is synonymous with forgiveness.

Constitutional court judge, Justice Pius Langa, said reconciliation did not mean automatic forgiveness or the obliteration of the past.

“At that crucial moment when the perpetrator meets the victim, it is not reconciliation when the perpetrator stretches out his hand in enthusiastic greeting as if to say ‘we are on the same side’,” Langa said.

“Can the victim be blamed if he recoils (when) forgiveness is taken for granted? Shouldn’t the perpetrator wait until the victim stretches out his hand?”

‘The nation is deeply divided. The wounds are very deep and will take a while to heal’

Langa said there was evidence that far too many perpetrators assumed they would be forgiven when this should never be taken for granted.

Fellow speaker Dr Mahmood Mamdani, from the Centre for African Studies at the University of Cape Town, agreed.

“When forgiveness is a choice, it’s empowering. When forgiveness is a compulsion, it’s a humiliating reminder of one’s powerlessness.”

Mamdani quoted the proverb “you seldom forgive what you can’t punish”, and emphasised that there needs to be a balance of power between estranged parties for forgiveness.

The CSV’s Brandon Hamber said it was necessary to re-establish this balance to facilitate healing. The anger which some TRC victims/survivors feel – that people in a more powerful position than themselves have the right to grant perpetrators amnesty – needs to be addressed.

Hamber, a clinical psychologist, warned that South Africans must not push aside their anger. “Justice is like a fire. If you cover it, it still burns.”

He observed that the “TRC has injected the word forgiveness into the concept of reconciliation” when forgiveness was not universally accepted as an integral part of reconciliation.

Hamber also said reconciliation has been confused with peace-building, of the type practised by President Nelson Mandela and Archbishop Desmond Tutu.

Another problem is the assumption that the truth is one step on the road to reconciliation. “Ironically truth can have the opposite effect, increasing the demand for justice. (Yet in the TRC process) truth replaces justice,” Hamber said.

Calls for prosecution and justice have been fuelled recently by the callous attitude of many perpetrators.

Television’s *TRC Special Report* executive producer, Max du Preez, said he could no longer accept the official position that perpetrators did not need to apologise to receive amnesty.

“So many people have died and

there are so few words of remorse. The TRC should have forced people (to say sorry) for the sake of those who suffered.

“It would make the perpetrators think about remorse and about an apology. It would take away from their false honour and bravado.”

Moreover, apologies could have been tested under cross-examination and had an impact on whether amnesty was granted or not. “People don’t change because they see the light but because they feel the heat,” Hamber said, quoting an American president.

A speaker for the Khulumani Support Group, Ms Alegria Nyoka, said that the perpetrators of gross human rights should be removed from public office.

“We need institutional transformation. We look at the police until now and we see no changes.”

Nyoka’s brother was shot 12 times and killed in his bed by policemen. Many other victims/survivors do not know what happened to their loved ones and finding out the truth from the perpetrators is their pre-condition for reconciliation.

Symbolic reparations

Nyoka said many members of Khulumani feel that symbolic reparations and material assistance would promote reconciliation.

“We do not see any monuments we want to reiterate to the Government that symbolic reparation is very important to us,” she said.

“The Government has a moral obligation to help our people who are desperately in need, financially and psychologically. People have wronged us and benefited in the past and they are still benefiting.”

TRC vice-chairman Dr Alex Boraine admitted that the gap between identifying victims and granting them reparations was a “major weakness”.

The commission was, however, hoping to start granting interim reparations to victims soon in the form of a one-off payment of R2 000. These payments were a very limited acknowledgement of victims’ pain and only transformation accompanied by development will lead to true reconciliation.

“The nation is deeply divided. The wounds are very deep and they will take a while to heal,” said Langa. “We must bridge the gap between the haves and have-nots. We have a challenge to create one world. We can’t think of reconciliation without transformation.”



Flashback .. TRC chairman Archbishop Desmond Tutu in George recently after former president PW Botha's trial for snubbing the Truth Commisic' • Wse

PIC AP



How lay assessors can help courts

Martin Schonteich's assertion that the Magistrates' Courts (Assessors) Amendment Bill will have serious consequences for the independence and impartiality of the judiciary at magistrate's court level is incorrect (Courts' bill in the dock, March 30) His statement that the assessor system will "put the integrity of the courts at risk" and "is unnecessary" is also wrong

Since 1994, local communities have recognised that the courts have a role to play in combating crime and in making South Africa safe and secure. But, communities which need to be protected often find that magistrates do not appreciate fully the conditions which prevail in their areas. Many accused persons are released on bail shortly after their arrest. This causes fear and anxiety. Inappropriate sentences also cause anger.

Bail and sentencing shortcomings have probably been due to a number of factors which include poor investigations, inadequately prepared prosecutors and problems with the interpretation of the constitution and the bail laws. For these reasons, the bail provisions were amended in 1995 and again recently, while minimum sentences are receiving attention.

Schonteich, incidentally, objected to the proposed new bail laws.

To restore trust in, and to improve the courts' role in fighting crime, community participation is necessary. This can partly be achieved by extending the lay assessor system.

If we fail to do so, then communities themselves will deal harshly with persons suspected of having committed crimes. The rule of law and the constitution will be undermined and lawlessness will prevail.

The system has had its teething problems. However, the establishment of assessor committees at courts has facilitated co-operation with magistrates and ensured that assessors discharge their functions competently. The legitimacy of the judiciary is also being enhanced and the courts are beginning to deter criminality. Sometimes accused persons do not want assessors because they fear heavier than usual sentences. This development has been welcomed.

Assessors are not rubber stamps. They assist magistrates to arrive at verdicts which are just and fair. Occasionally they overrule magistrates. In one particular review matter, the high court upheld

People from community can help magistrates understand context

of a case, writes Enver Daniels

Star 27/4/98 (252)

the views of the assessors and confirmed the conviction. We must not assume that people who are not highly educated cannot apply their minds properly to judicial matters. Law is based on ethics, logic and morality, which are concepts which people understand. That particular matter demonstrates that assessors are necessary in criminal matters.

The perception that the courts only serve those who have historically enjoyed privileges is diminishing. The assessors will make the courts more effective in the fight against crime, because the communities' views will be considered and magistrates will, with the assistance of the assessors, be able to evaluate the evidence. Minor delays may arise, as a result. However, the conviction rates are likely to increase. That should please Schonteich who has often claimed that convictions are too low.

One can perhaps sympathise with Schonteich's statement that the cash-strapped justice system should not be spending money on assessors. Apart from the fact that such an argument is puerile, it ignores both the useful role assessors are playing and the real problem of the absence of a coherent prosecution policy.

This will be remedied once the National Prosecuting Authority Bill has been passed. The National Director of Public Prosecutions will determine a uniform prosecution policy which will be applied throughout the country. More petty offences will also be diverted, thereby improving the ability and efficiency of the courts to combat more serious crimes.

The lay assessor system is part of a plan by Minister Dullah Omar to transform the administration of justice, to make it efficient, effective, accountable and representative, in accordance with Vision 2000 which details his objectives. It must not be seen in isolation, but as part of the many initiatives taken by him to make society safe and secure for all, especially for women and children.

■ Enver Daniels is the chief state law adviser.

Black members of the Bar revolt

CT 27/4/98

(252)

JUSTICE WRITER

BLACK advocates, frustrated at the perceived lack of transformation in the white male-dominated Cape Bar Council, have revolted and refused to take part in its activities

The 19 black advocates are demanding joint control, with the Bar's 276 white male and female members, of all Bar structures. They say the attorneys' profession has been unified and the Bar should be, too.

They are not prepared to participate in any of the Cape Bar Council's committees or sub-committees.

The bombshell was dropped at the Cape Bar Council's 86th annual meeting on Thursday.

Mr Ismail Jamie, who was to have served another year's term on the council, resigned. Mr Anwar Albertus, chairman of the bar council's bursary committee, submitted his resignation.

In a joint statement, the advocates say their decision arose from discussions about whether they should take part in bar council elections.

Several of their number had been approached about standing. They were concerned that if they were nominated, there was little chance of their being elected because the Bar was overwhelmingly white and male.

However, they did not lack the confidence to serve on the Bar council, nor did they think they were insufficiently competent or qualified.

The Cape Bar Council and General Council of the Bar could not be seen simply as voluntary organisations regulating the practices of a group of self-employed

advocates, the statement said. This approach was narrow, selfish and designed to perpetuate the profession's domination by white persons.

"Advocates serve members of society in the private and public domain. Vast numbers of litigants are black persons.

"They and the major corporations and public bodies are served mainly by white advocates. The group is of the view that

this imbalance needs to be addressed in an urgent and serious manner — not by white-dominated Bar councils at their leisure (or pleasure), but in full partnership with black advocates on an equal basis."

The group said the Bar council's profile and culture needed to be changed drastically, but this could not be

done under the white male-dominated system.

The argument that members of the Bar council should be white and male as most advocates were white and male was narrow, sexist and racist. "It ignores fundamental historical, political and economic

reasons why there are more white and male advocates at the Bar than black and female advocates."

The Bar council needed to represent the interests of all its members equally and fairly, the statement said. However, it could do so only if its composition was consistent with that of society.

"The Bar council should confront the reality that change has taken place in this country and that the country is governed by black persons who are in the majority."

Mr Jeremy Gauntlett, chairman of the Cape Bar Council, said the council deeply regretted the group's decision to withdraw, especially as the committees on which black advocates had served helped the disadvantaged and the public.

An advocate who declined to be identified said a vigorous transformation programme, in which black members had played an important role, had been underway since last year.

The Bar council should confront the reality that ... the country is governed by black persons

SIX COUPLES IN COURT BATTLE

Gays seek right to stay for foreign partners

THE DEPARTMENT of Home Affairs' interpretation of "spouses" discriminates against same-sex partners in committed relationships, the Cape High Court has heard. Justice Writer **RONALD MORRIS** reports.

SIX lesbian and gay couples have taken the Minister of Home Affairs to the Cape High Court over his decision not to grant permanent residence to their foreign-born same-sex partners

They are supported in their application by the National Coalition for Gay and Lesbian Equality and the Commission for Gender Equality.

The applicants are: Mr Sven Patrik Alberding, a German and the partner of Mr Clint Tatchell, Ms Fiona Watson, a British national and partner of Ms Lucinda Shingsby; Mr Malcolm North, a British national and partner of Mr Steven le Grange; Mr Franck Joly, a French national and the partner of Mr Hilton Kaplan; Ms Linda Aoudia, a French national and the partner of Ms Christine Hazebroucq, and Mr Argyris Argyrou, a Cypriot and the partner of Mr Jacobus de Wet Steyn

In papers Mr Abdurrazack "Zackie" Achmat, convener of the coalition, said the application was on behalf of gay, lesbian and trans-gendered individuals and couples in South Africa who were denied equal protection and benefit under the law

They were affected directly by the unfair restrictions of section 25 (5) of the Aliens Control Act, he said. In terms of this section, a regional committee of the Department of Home Affairs may authorise an immigration permit for an applicant whose spouse or dependent child is permanently and lawfully resident in South Africa.

Achmat said the department's interpre-

tation of "spouses" excluded same-sex life partners of South African citizens, even though these partnerships were abiding, serious and of long-standing

The non-recognition of their relationships undermined the dignity and self-esteem of lesbian and gay couples who were so excluded

In treating their relationships differently from those of married couples or customary unions, the Department of Home Affairs "stigmatises and demeans them as having less worth, dignity and familial relationship than the groups recognised".

In applying the Aliens Control Act, the recognition of same-sex relationships would eradicate unfair legal restrictions on lesbian and gay people. It would also help to remove the stigma and prejudice associated with the lesbian, bisexual and trans-gendered communities.

It was in the public interest that laws that were inconsistent with the Constitution be declared unconstitutional and invalid.

Giving details of correspondence with the Department of Home Affairs, Achmat said the coalition had been told exemp-

tions had been granted in several cases and that the Minister of Home Affairs was "satisfied that special circumstances" exist.

In January the director-general of Home Affairs, Mr Aubrey Mokoena, refused exemptions to foreign nationals in same-sex relationships. In a letter, he said that in view of the "steady flow of applications", it could hardly be argued that "special circumstances" existed

This reason, Achmat said, was so unreasonable as to amount to a failure by Mokoena to apply his mind.

There was no reasonable benefit to the state in denying the foreign partners of same-sex couples temporary residence exemptions.

The blanket refusal to do so would inflict unnecessary hardship and indignity on the applicants and on other South African gays and lesbians, Achmat said

"The failure of the Aliens Control Act to recognise committed same-sex relationships is inhumane (and) causes

hardship and unacceptable emotional and psychological stress for the individuals in a manner that is inconsistent with a society based on human dignity, equality and freedom."

Argyrou and Steyn applied urgently last week for an order directing Mokoena to renew Argyrou's temporary residence permit until the review proceedings had been finalised. Argyris' tourist visa was about to expire and he risked being deported.

The failure of the Aliens Control Act to recognise committed same-sex relationships is inhumane (and) causes stress ... that is inconsistent with a society based on human dignity, equality and freedom

Advocating transparency

ET 29/4/98
RONALD MORRIS
JUSTICE WRITER

THE General Council of the Bar, the national advocates' body, is to ask the powerful Judicial Services Commission — which appoints judges — to conduct all its proceedings in public

In a statement, Mr Peter Hodes, SC, chairperson of the GCB, said while judicial candidates are subject to a public examination by the JSC, the JSC itself conducts all its own decision-making behind closed doors, irrespective of whether there is any special need for confidentiality which might justify this in a particular case

Hodes said the GCB strongly supported a consistent transparency in the JSC's work and he had told the JSC in a letter that the partial secrecy in its proceedings, without regard to the circumstances, was unacceptable in principle and hard to understand

"The inevitable result is public and,

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especially, media speculation — which the JSC naturally finds itself unable to confirm or correct, since it has met behind closed doors. Rumours are fuelled as to which factors sealed a candidate's fate and how members of the commission — all public representatives — in fact voted"

Hodes said this was not only bad for the JSC's standing but also unfair to candidates. They have their professional competence and suitability for judicial appointment examined in the full glare of the media.

"Distressingly, on occasion questions have even been permitted as to whether they are members of political parties or why a candidate never joined a party. But the same standard does not apply to the JSC when it gets down to choosing judges

"We believe that all South Africans are entitled to audit that critical process too. This is vital to the standing of the JSC and to the willingness of senior practitioners to come before it," Hodes said

MK set for amnesty hearings

(252)
JOHN YELD

ON THE TRUTH COMMISSION

ARG 29/4/98

Amnesty applications by senior Umkhonto weSizwe operatives for an eight-year bombing campaign that killed more than 20 and injured 350 will be heard in Pretoria from next week.

Incidents include the controversial bombing of the SA Air Force HQ in Church Street, Pretoria, in May 1983, in which 19 people died and 217 were hurt.

Other incidents include attacks on the Sasol and Natref oil refineries in Sasolburg and Secunda in 1980, the Voortrekkerhoogte military base in August 1981; the Wits Command of the then SA Defence Force in July 1987; the Krugersdorp Magistrate's Court in March 1988, and the Department of Foreign Affairs in Market Street, Johannesburg, in December 1983.

The applicants, who were members of a small, elite MK special operations bombing unit, include Aboobaker Ismail, now a general in the secretariat of the national defence force.

Other amnesty applications relating to attacks by the MK bombing unit - particularly those in KwaZulu Natal, such as the Magoo's Bar attack - will be heard in KwaZulu Natal.

Strydom withdraws amnesty application

Unrepentant 'Wit Wolf' says he will fight the pending civil claim against him by the children of one of his victims

BY ROBERT BRAND

Barend Strydom, the "Wit Wolf" who killed eight people in a racially-motivated attack in Pretoria 10 years ago, has withdrawn his application for amnesty.

This has opened the way for the children of one of his victims to sue him for damages.

Strydom, who was sentenced to death in 1989 but later reprieved and released on parole, said he had decided to withdraw his amnesty bid because he believed a blanket amnesty should be granted to all right-wing "political prisoners".

After initially denigrating the Truth and Reconciliation Commission (TRC) process as "ungodly", Strydom applied for amnesty last year to pre-empt a claim for damages by the children of one of the men he had gunned down.

Victoria Mabena, the widow of Pretoria municipal worker Geelbooi Mabena, had sued Strydom for R60 000 for loss of support on behalf of her two minor children, Joshua (17) and Goodwill (12).

In accordance with TRC legislation, the civil claim was suspended pending the outcome of Strydom's amnesty application.

Mabena's attorney, Louise du Plessis of the Legal Resources Centre in Pretoria, said the claim would now go ahead in the Pretoria Regional Court. Strydom has to file a replying affidavit to papers already served on him before a court date will be set.

Mabena was paralysed from the waist down when a bullet lodged in his spine during Strydom's killing spree on Strydom Square in Pretoria on November 15, 1988.

He lived long enough to testify against Strydom at his

trial, and survived another four years on a meagre disability pension of R500 a month before he died, apparently of complications from the bullet wound.

None of Strydom's other victims has sued him and the time period for potential civil claims against him has now passed. However, this prescription does not run against minor children, allowing Joshua and Goodwill Mabena to institute their claim.

Because Strydom has already been convicted of attempting to murder Mabena, the only burden of proof on the children would be to show that their father had died as a result of the bullet wound.

Strydom yesterday said he would defend the action in court. He also said he had been planning to make "dramatic disclosures" in his amnesty application about his treatment in jail and the "NP's promises".

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Church street bombers seek amnesty

PA 30/4/98

(252)

SENIOR Umkhonto we Sizwe (MK) operative in the 1980s, Aboobaker Ismail, has applied for amnesty for his involvement in seven high profile guerrilla attacks, including those on Church Street in Pretoria, two Sasol installations and Voortrekkerhoogte.

The applications of nine others involved with Ismail will also come up in hearings due to begin on May 4 and expected to last three weeks.

MK special operations unit commander Ismail and two cadres, Johannes Molefe and Helena Pastoors, had applied for amnesty for the May 1983 bombing of the SA Airforce headquarters in Church Street, Pretoria, the

truth commission said.

The attack occurred under Ismail's command, while Molefe had been involved in its planning.

The commission said Pastoors was ordered to drive a vehicle containing explosives to a prearranged place in Pretoria, which was to be picked up by other operatives for the attack.

The two cadres who carried out the attack were blown up in the blast which killed 19 other people and injured a further 217.

Ismail, David Moisi and Velaphi Msane had applied for amnesty for the limpet mine attacks on three oil refineries in Sasolburg and Secunda on

June 1 and 2 1980, the commission said. A security guard was injured.

Ismail and Molefe had also applied for amnesty for the August 12 1981 rocket attack on Voortrekkerhoogte.

Ismail, along with Mohammed Iqbal Shaik and Mohammed Abdullah Ismail, had applied for amnesty for the August 1983 limpet mine attack on the Ciskei consulate, said the commission.

The May 28 1985 attack on the SA defence force medical command in Hillbrow, where 17 people were injured, involved Ismail as commander and Shaik, who placed the limpet mine. The pair also applied for amnesty for the 1988 bombing of the Krugers-

dorp Magistrate's Court and the adjacent police station. Three people died and 20 others were injured.

Ismail was the sole applicant for the March 4 1986 attack on John Vorster Square, which he said claimed four victims, the commission said.

The commission had received amnesty applications for the attack on the Wits command from Ismail, Molefe, Johannes Henrich Grosskopf and Cohn Mark De Souza.

One soldier was killed and 68 people injured when a bomb in a vehicle exploded on the corner of Quartz and De Villiers streets in Johannesburg on July 30 1987 — Sapa.

NP to table 60 questions on amnesty process

Wyndham Hartley

CAPE TOWN — The National Party (NP) yesterday predicted more court challenges to the amnesty process.

Its forecast came at the launch of an offensive against the truth commission involving 37 pages of questions to be answered by Justice Minister Dullah Omar in Parliament.

Releasing the list of 60 highly detailed questions, NP truth commission spokesman Jacko Maree said the probe was "an honest attempt" by the party to get all the facts on the commission from its inception. The questions will be for written reply by the minister.

Maree said he was concerned about "things going wrong" in the amnesty

committee. He said the law required the commission to take previous amnesty laws into account, but it had operated according to different principles. These principles had been applied in some cases by the amnesty committee and not in others.

"Unless something is done, there may well be more court challenges from those who have been denied amnesty," he said.

Maree said also that the NP had indications that the African National Congress and the commission were negotiating a settlement to the commission's court challenge to amnesties granted to 37 ANC leaders. He said an out-of-court settlement would influence the NP's own court challenge to

the amnesties, which the party insisted were illegal. The NP applied yesterday to court for leave to intervene so that any settlement did not scupper its court action.

Maree denied that the questions the NP intended tabling were an attempt to discredit the commission's final report in advance of what could be a damning indictment of the previous government's role under apartheid. He said the questions were designed to establish the "context" in which the commission had worked, come to its decisions and completed its report.

Maree said the NP was concerned that the commission was not fully representative, and said that most of its staff were ANC members or support-

ers. No NP nominations were approved when the commission was established, he said. The two commissioners who clearly were not ANC-linked, Wyndham Malan and Chris de Jager, were clearly not in favour of either the NP or Inkatha. Omar would be asked to identify the political allegiances of commissioners and staffers.

The questions, which range from the salaries paid to staff to the hotels where they stayed and the perks they enjoyed, were designed to establish also the real cost of the commission to taxpayers.

Other questions attempted to ascertain whether equal effort had been paid to investigating human rights abuses by both sides under apartheid.

Nats bombard TRC

in total onslaught

Omar peppered with questions

ARG 30/4/98

(252)

The National Party is making an all-out assault on the Truth Commission, claiming it is not properly constituted because it does not reflect all political views and has done nothing for reconciliation.

The attack is taking the form of a comprehensive set of questions to Justice Minister Dullah Omar to be tabled in Parliament in the next few days

The questions were released at a press conference yesterday in an "unparliamentary" form, consisting of several hundred questions covering the political affiliations of the commissioners and the commission's committee members, salaries paid, hotels used during hearings, the nature and extent of investigations into human rights abuses, court applications involving the commission, amnesty decisions and reparations

The list also includes a sub-set of 43 questions relating to the "armed struggle", which the NP asked in a letter to the commission about two months ago, and to which it has not yet had a reply

The NP spokesman on the commission, Jaco Maree, said the questions were an attempt by his party to obtain



ON THE TRUTH COMMISSION

clarity on the commission's methodology, as its final report - due at the end of July - had to be read with this in mind

The commission had a controversial history and the degree to which it had fulfilled its mandates to find the truth was "questionable", and to promote reconciliation "very much in dispute"

There were even allegations that the commission was promoting "recrimination" rather than reconciliation, Mr Maree said

"We must know how the TRC saw its work and how it set about its task the answers can either improve or worsen its reputation"

Mr Maree denied that the questions were part of a deliberate campaign by

the NP to "blunt the political damage" anticipated in the final report

He said the NP was not anticipating a favourable report by the commission

"Not at all The answers (to our questions) may alleviate our fears, but, frankly, I don't think that will happen But I'm open to surprise"

Mr Maree also released a list of 140 names of commissioners and commission staff, their positions and salaries

He said he did not know who had sent him the list, nor whether it included all employees

"But I cannot spot a single person who is familiar to me or who could possibly be an NP sympathiser"

The "politically skewed" commission had been exacerbated by "a whole body of employees possibly more radical", he added

Challenged on how he could tell the political affiliations of those on the list from their names and positions, Mr Maree said there was "a suspicion" that they were all African National Congress sympathisers

Commission spokesman John Allen declined to respond before seeing the questions

NP steps up battle on ANC amnesty

(252)

ARG 30/4/98

JOHN YELD
ON THE TRUTH COMMISSION

The National Party has launched two more High Court applications in connection with its bid to have the controversial amnesty for 37 high-profile African National Congress members overturned.

The NP and the Truth Commission itself have already filed separate applications asking for the amnesties, granted by the commission's autonomous amnesty committee, to be declared illegal

The 37 ANC members have indicated that they intend opposing both applications, although they have not yet filed responding papers and the NP applica-

tion is set down for hearing on May 29

Last week the NP applied to the Cape High Court to have its application consolidated with that of the TRC, a move the commission is opposing

But the NP is also concerned that the commission will reach an out-of-court settlement with the members, and so yesterday launched yet another application to be allowed to intervene in the commission's application and to be joined as a party

NP spokesman on the commission Jaco Maree said yesterday the party was concerned about a possible settlement between the TRC and the ANC

"This will affect us and we would want to know on what basis they settled," he said

"There are negotiations between the ANC and the TRC, but we don't know how far they've progressed"

Commission spokesman John Allen confirmed they had decided to oppose the NP's bid to have the two applications consolidated, and that chairman Desmond Tutu had instructed their legal team to approach the ANC about a possible out-of-court settlement

"From our perspective, it is much too long a wait (until May 29) We were going to approach the ANC yet again, to get some kind of order by consent to avoid all the to-ing and fro-ing between lawyers," he said

The commission had not yet seen the papers for the NP's second application, Mr Allen said

'Wit Wolf' to face claim as he drops amnesty bid

ARGUS CORRESPONDENT
ARG 30/4/98 (252)

Johannesburg – Barend Strydom, the “Wit Wolf” – who killed eight people in a racially motivated attack in Pretoria 10 years ago – has withdrawn his application for amnesty, opening the way for the children of one of his victims to sue him for damages

Strydom, who was sentenced to death in 1989 but was reprieved and released on parole, said he had decided to withdraw his amnesty application because he believed a blanket amnesty should be granted to all rightwing political prisoners

After initially denigrating the Truth and Reconciliation Commission (TRC) process as “ungodly”, Strydom applied for amnesty last year to pre-empt a claim for damages by the children of one of the men he had shot

Victoria Mabena, the widow of Pretoria municipal worker Geelbooi Mabena, had sued Strydom for R60 000 for loss of support on behalf of her two minor children, Joshua, 17, and Goodwill, 12

In accordance with TRC legislation, the civil claim was suspended pending the outcome of Strydom’s amnesty application

Mrs Mabena’s attorney, Louise du Plessis of the Legal Resources Centre in Pretoria, said the claim would now go ahead in the Regional Court. Strydom has to file a replying affidavit to papers already served on him before a court date is set

Mr Mabena was paralysed from the waist down when a bullet lodged in his spine during Strydom’s killing spree in J G Strydom Square in Pretoria on November 15, 1988.

He lived long enough to testify against Strydom at his trial and survived another four years on a disability pension of R500 a month before he died of complications arising from the bullet wound

Strydom said yesterday he would defend the action in court

He said he was planning to make “dramatic disclosures” in his amnesty application concerning the Wit Wolwe, an organisation he claimed to lead – but which police described during his trial as mythical

Dramatic hike in advocates' fees

Mt-Cy 30/4-7/5/98

(252)

Tangeni Amupadhi

Legal assistance from advocates has become far too expensive for most South Africans.

The Society of Advocates has set fees of up to R1 080 an hour and as much as R10 800 a day. The Johannesburg Bar Council

approved the new fee guidelines last week.

The R540 to R1 080 hourly rates are parameters set for senior counsel for drawing up pleadings, drafting affidavits, giving advice on evidence and appearing in court.

Junior counsel can charge between R220 and R700 an hour and R1 800 and R7 000 a day. Advocates

may, however, charge lower fees than the guidelines.

A consultant on advocates' fees, who did not want to be named, said:

"The main thing with advocates is they don't have tariffs set down for them. Obviously they charge what they think the market can bear. For somebody to earn R1 000 an hour for consultation is pretty high."

The chair of the Johannesburg Bar Council, Gerald Farber, SC, said the increase was justified because the previous adjustment was three years ago. He also said the decision was unanimously adopted.

"[The hike] simply accommodates inflation and reflects the fees which advocates are charging at the moment," said Farber.

Until now, senior advocates could charge between R540 and R900 an hour, while their juniors were permitted to charge up to two-thirds the figures asked by senior counsel. Daily parameters were up to R9 000 for seniors and R6 000 for juniors.

A representative from the Wits Law Clinic said while advocate fees depended on the kind of work being done, the latest figures "sound alarming".

The amounts recommended for senior advocates are the same for supreme and magistrate's courts, and for civil and criminal cases.

PUBLIC SECTOR-GOVT. - JUSTICE

1998 - MAY.

ANC drops plan to block TRC application

(252) Star 1/5/98

The ANC has withdrawn its opposition to an application by the Truth and Reconciliation Commission asking the Cape Town High Court to nullify the blanket amnesty granted to 37 senior ANC members.

Acting TRC chairman Dr Alex Boraine said the commission's application had been set down for a hearing next Friday. The TRC would also ask the court to order that the amnesty applications be referred back to its amnesty committee to be considered afresh.

"The ANC's decision to withdraw its opposition to our court application opens the way to a speedy resolution of the matter. It enables us to approach the High Court a full three weeks ahead of the date agreed to between the National

Party, which has brought a court application similar to the TRC's, and the ANC," Boraine said.

The NP could still delay resolution of the matter as it had given notice that it wanted to intervene in the TRC's court application against the ANC in certain respects.

In its court papers, the NP alleged that the ANC applications for amnesty were not capable of being considered afresh.

"As a result the NP is opposing that part of the TRC application which asks the court to refer the amnesty applications back to the amnesty committee for reconsideration.

"The National Party will argue its case for the intervention when the TRC's application goes to court on May 8," Boraine said. - Sapa

Lower courts given more muscle

By ROBERT BRAND

A new law which sets tough minimum sentences for serious crimes and more than doubles the maximum sentences which can be imposed in lower courts comes into effect today.

The Criminal Law Amendment Act will allow a Regional Court to impose sentences of up to 25 years or refer serious cases to the High Court for sentencing if its own jurisdiction does not allow an appropriate sentence. Before now, Regional Courts could not impose a sentence of more than 10 years for any one crime

"We are confident that (this legislation) will be sending a clear message to criminals who are committing serious violent crimes that the law is going to be tough on them," said Paul Setsetse, a spokesman for Justice Minister Dullah Omar

The new sentencing provisions have been hailed by the

Department of Justice as "an important measure .. in respect of combating crime"

The provisions will remain in force for two years, after which the president will have the option of extending them if the crime rate has not shown signs of decreasing

Section 51 of the new law sets minimum sentences for

Part of anti-crime campaign

serious crimes such as murder, rape, armed robbery and crimes against minors tried in the High Court or in Regional Courts. It also allows the Regional Courts to impose a sentence of up to 25 years

The law does, however, allow courts the discretion of imposing a lesser sentence in "extraordinary circumstances" or, if

the criminal was a child under the age of 18 at the time the crime was committed

A sentence imposed in terms of section 51 may not be suspended

Section 52 of the act allows a Regional Court to refer a case to the High Court for sentencing if it regards the minimum sentence set for the crime as inadequate.

"It is trusted that the imposition of minimum sentences will serve as a deterrent factor for offenders," the Justice Department said.

The imposition of minimum sentences is part of the Justice Ministry's programme to combat crime, announced by Omar last year. The programme also includes the tightening of bail conditions.

Setsetse stressed the temporary nature of the minimum sentencing provisions, saying it was a direct response to the current crime wave

The great escape from death row

ARG 1/5/98 (252)(252)
430 face new sentences

LINDSAY BARNES
STAFF REPORTER

More than 430 "thoroughly evil" criminals - sentenced to hang before the death penalty was abolished - are to return to court to get new sentences.

The process will begin once the Criminal Law Amendment Act of 1997, which allows for the substitution of the death penalty with a jail sentence, has been implemented.

The act was expected to come into effect today, but has been delayed briefly.

The Department of Justice is about to embark on the mammoth task of tracing the judge who presided at each death row prisoner's trial. The judges will be asked to hear argument on re-sentencing and if any are unavailable, others will be assigned by the court.

The process will be costly to the State and is likely to place a heavy burden on the offices of Attorneys-General.

The death sentence was suspended by then-President F W de Klerk in 1990 and abolished by the Constitutional Court almost three years ago.

It has taken this long for new legislation to be put in place to deal with the predicament of death row prisoners.

Paul Setsetse, spokesman for Justice Minister Dullah Omar, said the move con-

firmed the Government's commitment to rid South Africa of the death penalty and remove the "dark cloud" hanging over the heads of the death row prisoners.

Last year prisoners had told Mr Omar of their anxiety about continued calls for the return of the death penalty. They had requested that the process of re-sentencing be speeded up. This was now being done.

In response to a question, Mr Setsetse said his department did not expect a backlash against the process. "All political parties are quite aware the death penalty has been abolished. The death penalty is not a deterrent to crime and is not the solution. An effective criminal justice system is the only deterrent," he said.

Until recently, all death row convicts were held in Pretoria Maximum Prison, but they have since been dispersed to prisons around the country to be nearer their families, in accordance with Correctional Services policy.

In the Western Cape 16 death row prisoners had returned to local maximum-security prisons to await re-sentencing, said Bert Slabbert, spokesman for Correctional Services Minister Sipo Mzimela.

In terms of the amended act each prisoner is to return to the court in which his case

Death row men back in courts

(252) (252)
From page 1

ARG 1/5/98

was heard. Western Cape Attorney-General Frank Kahn said arguments and evidence would be allowed, but no new evidence could be introduced.

Earlier Mr Kahn argued before Parliament that this method was more practical than simply adjusting all death sentences to life sentences.

He said preparation for the step would involve the transcribing of thousands of pages of documents and would take five of his advocates about four months.

Each case would take one day in court. He could not estimate the overall cost to the province.

The crimes of those who got death sentences ranged from murder to rape with aggravating circumstances, housebreaking with aggravating circumstances and robbery with aggravating circumstances, Mr Kahn said.

Most were "thoroughly evil" and many were likely to get life sentences.

Johan Labuschagne, deputy director at the Department of Justice, said that in the case of life imprisonment, parole might not be considered before the prisoner had served 25 years or had reached the age of 65 and served at least 15 years.

To page 3

ANC pulls out of 'blanket' amnesty court battle in bid to

JOHN YELD

ON THE TRUTH COMMISSION

The African National Congress has decided not to oppose a High Court bid by the Truth and Reconciliation Commission for the "blanket" ANC amnesty to be declared invalid

The move appears to be a political decision designed to thwart the National Party, which has launched its own High Court application for the reversal of the controversial amnesties granted by the commission's autonomous amnesty committee in December to 37 high-profile ANC leaders

The ANC had previously indicated that it intended, opposing both applications

Its decision, announced late yesterday, was welcomed by TRC deputy chairman Alex Boraine

He said the commission's application would now be set down for hearing next Friday, when it would ask the court to order that the 37 amnesty applications be sent back to the amnesty committee to be considered

AKH 1/5/98

(257)

The ANC's decision to withdraw its opposition to our court application opens the way to a speedy resolution of the matter.

"It enables us to approach the High Court a full three weeks ahead of the date agreed to between the NP, which has brought a court application similar to the commission's, and

the ANC," Dr Boraine said

But the NP may still delay resolution of the matter

It has already launched two additional High Court applications in connection with the controversial amnesty decisions

It has asked to have its initial application consolidated with that of the Truth Commission - a move the

commission is opposing

Additionally it has asked to be allowed to intervene in the application being brought by the commission

It also wants to be joined as a party in this application

Lawyers for the NP will argue this case when the commission's application goes to court next Friday

thwart Nats

NEWS

Pain and humiliation as thugs mete out kangaroo justice

Star 2/5/98 (252)

The sjambok weals on Justice Mokwana's back are a stark reminder of what happens when you cross the path of Mapogo a Mathamaga.

The 44-year-old father of four claims to have endured a three-day torture ordeal at the hands of the Dennilton, Mpumalanga, branch of this feared anti-crime vigilante group.

There are marks all over Mokwana's back, legs and arms, which has resulted in his being unable to work as a taxi driver for the past three weeks.

"Five men stopped my taxi three weeks ago and told my passengers to get out. I was taken to a filling station where a group of Mapogo members interrogated me and my nephew Doctor about a missing gun.

"It was the most humiliating experience I have ever had. I was made to undress in front of young girls who made disparaging remarks about me," Mokwana says.

The vigilantes then handcuffed him and rained sjamboks on his back. Both Mokwana and Doctor (24) were herded to a stream and ordered to jump into the cold water.

"Every so often they would pull us out and subject us to more lashings. In the evenings we were locked up. On the second day my body could not take it anymore and I finally admitted I stole the gun. We were released on Wednesday and laid charges of assault and kidnapping against members of Mapogo," Mokwana says.

He has not heard anything from the police, whom he accuses of protecting Mapogo members.

Dennilton police station commander Superintendent A J Klaasen refused to discuss Mapogo and slammed the phone down on the *Saturday Star*.

Local Mapogo chairman Byforce Magoro denied they had used excessive force to interrogate Mokwana and his nephew.

Although both Mokwana and Doctor claim they were interrogated only about a missing gun, Magoro says the two helped Mapogo in a car-theft case.

"They gave us information that led to police recovering about 24 stolen cars," Magoro says. Mokwana denies this.

Northern Province safety and security spokesman Charley Nkadmeng says there are serious internal problems in Mapogo and that the leadership is unable to control its members.

"Mapogo is being used by right-wing whites who have an agenda to show that the Government is ineffective," he adds.

Northern Province police spokesman Senior Superintendent Phuthi Setati says.

"Although we support organisations that fight crime, we've had a problem with individuals within Mapogo who take the law into their own hands. We are currently investigating charges of murder, attempted murder and assault against Mapogo members."

A group of people who have felt Mapogo's wrath have formed an organisation to counter what they perceive as Mapogo's reign of terror. In Northern Province they call themselves Maputla a Mathamaga, and they have torched several businesses and houses of Mapogo members.



SERIOUS. Mapogo president John Magolego

Meiring, Liebenberg to face TRC on Umtata raid

ARG 2/5/98 (252)

Johannesburg - SA National Defence Force chief General Georg Meiring and former army general Kat Liebenberg will appear before the Truth and Reconciliation Commission on Monday at an inquiry into a SA Defence Force raid on a house in Umtata, Transkei, in 1993

TRC commissioner Dumisa Ntsebeza said the two generals had been subpoenaed to provide information about the killing of five children during the raid

"The former government said at

the time that they had information that the house was used as a base for the Azanian People's Liberation Army," said Mr Ntsebeza

The inquiry will be held in camera at the truth commission's Cape Town offices

Mr Ntsebeza said the generals would be questioned about all operational orders and instructions given to the 12-member team that carried out the cross-border raid

The truth commission also wanted them to name the people involved in

the planning of the operation and to provide details of intelligence reports

Mr Ntsebeza said last month that SA Police Services Sergeant Thapelo Johannes Mbelo had given testimony about the Umtata raid to a closed TRC inquiry. Sergeant Mbelo was involved in the former SAP's investigation into Apla activities

He said the commission might appoint lawyers for General Meiring and General Liebenberg if they could not afford their own - Sapa

A new pragmatism ends the era of eccentricity

South Africa's maverick human rights agenda has given way to a more mundane pragmatism, writes RAY HARTLEY (252)

ST 3/5/98

THE illusion that South Africa intended pursuing a human rights-driven foreign policy agenda was finally shattered when Deputy President Thabo Mbeki did not raise any such concerns with China on his visit to that country last month.

But the truth is that the ruling party has never actively pursued such an agenda, always placing its trade and party political priorities before human rights.

What created and sustained the illusion that human rights were important in foreign policy were the actions of President Nelson Mandela, who on several well-publicised occasions donned the cloak of the crusader for human rights.

Most high-profile of these was his move to swing the Commonwealth behind a package of punitive sanctions against Nigeria at the 1995 heads of government meeting in New Zealand.

On that occasion, Mandela, upon hearing of the execution of Ken Saro-Wiwa and others by the Nigerian government, summoned the Minister of Foreign Affairs, Alfred Nzo, still in his pyjamas, to his hotel room in Auckland and initiated a huge diplomatic assault.

Those of us who watched as Mandela took one day to galvanise the notoriously mealy-mouthed heads of state into action were in awe.

The results were impressive.

Nigeria was suspended from the Commonwealth and given three years to restore democracy or face further action.

Last year, another Mandela-driven intervention took place. In the presence of Indonesia's President Suharto, Mandela wondered aloud if he might be allowed to meet a jailed East Timorese resistance leader. His wish was granted and new ground was broken in the stalemate between Suharto and the East Timorese.

Looking at these two incidents — years apart, but both evidence of intervention driven by a concern for human rights — observers began to believe that South Africa was bringing a new moral centre to the interest-driven world of diplomacy.

There were many exceptions — Mandela's cuddling up to Cuban President Fidel Castro, his flirtation with Muammar Gaddafi and his welcoming smile for visiting Iranian officials — but these exceptions were taken as proving the rule. But it is now clear that observers had it wrong. What were taken to be exceptions were, in fact, evidence that pragmatism ruled.

It has now transpired that when Mandela acted against Nigeria or on behalf of the East Timorese, he did so despite, and not because of, the government's growing pragmatism.

Mandela is not going to be remembered by his successors as the founder of a new human

rights identity for South Africa on the world stage as much as an eccentric who bucked the trend — a maverick bellowing out of key in a herd of pragmatists.

Following Mbeki's visit to China, it is clear that policy is now, more than ever, driven by South Africa's economic needs.

This may be dictated, to some extent, by circumstance. After all, it will be a long time before South Africa is ruled once more by as commanding a presence on the world stage as Mandela.

While Mandela was able to call the Commonwealth heads of government to arms, leading from the front, it is hard to see Mbeki doing the same.

In New Zealand, thousands of kilometres and several time zones away, Mandela pulled a crowd of more than 120 000 adoring New Zealanders to an outdoor event in Auckland to celebrate his freedom.

If Mbeki had been president at the time of the Saro-Wiwa hangings, he would have had to do things differently. He would have to win the backing of African heads of state and then win support for the continental agenda from the rest of those at the summit.

That Mbeki is a master of this kind of pragmatic foreign policy is beyond doubt.

In Asia, he showed how he added some flesh to that pragmatism, projecting South Africa

as the spokesman — and investment gateway — for Africa and calling for the rescheduling of debt and better trade terms for poorer African countries.

Mbeki's pragmatism is driven by the fact that he has staked his reputation — and those of his economic ministers — on the success of his Gear (Growth, Employment and Redistribution) economic strategy. And for Gear's numbers to crunch correctly, South Africa will need foreign investment and new markets for exports — markets such as China.

Behind the decision to keep well away from the thorny matter of human rights in Chinese-ruled Tibet and the lack of political freedom in Beijing was a belief that South Africa needed the Chinese markets more than it needed to be a global human rights watchdog.

Time and again, Mbeki's aides explained that South Africa was in no position to take on the Chinese. "They'll tell us to get the hell out of here," said one aide.

Mbeki's pragmatism no doubt has the support of business, which has never let the nuisance of human rights get in the way of a fast buck, even in apartheid South Africa.

The result is that we are losing the lustre that comes with being a human rights miracle.

Pragmatism might be the rational choice, but the end of the era of righteous eccentricity has cheapened us all.

Advocates' row may cost R150 000

CARMEL RICKARD (292)

ST (CM) 3/5/98

THE dispute within the ranks of Cape advocates over transformation of the Bar could jeopardise a large donation, promised by a banking group, which has been earmarked to help new members

Last week 19 advocates, consisting of all the members of the Cape Bar who were not white, announced that they would no longer participate in major functions of the Cape Bar

They said they wanted transformation so that the advocates' profession would be regulated jointly by blacks and whites

This week it emerged that a major bank donation to the Cape Bar's bur-

sary fund could be at risk as a result of the group's decision. At issue is R150 000 — the largest donation made to a Bar in South Africa — intended to help advocates starting out in the profession

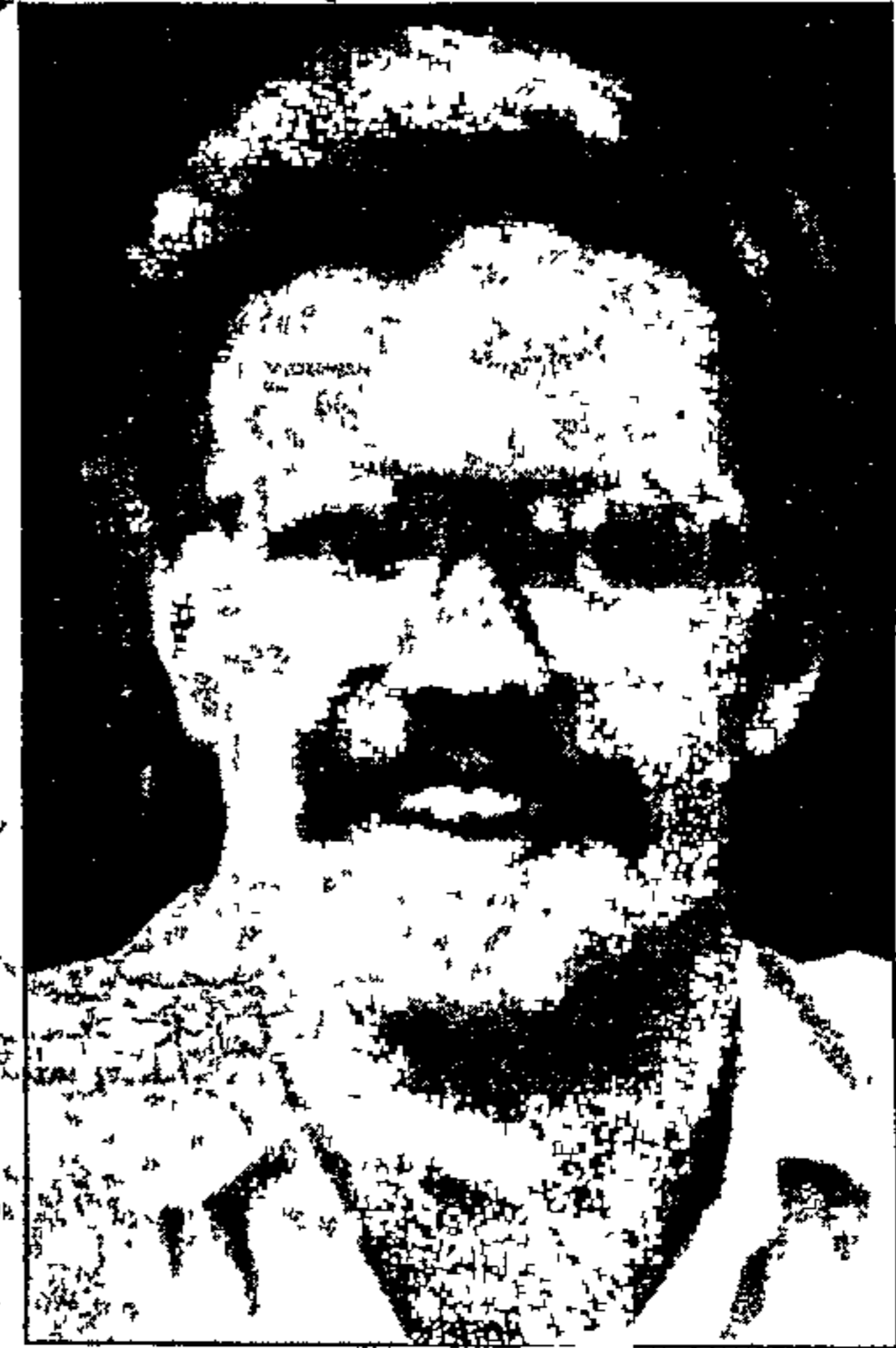
However, the bank has said the funds will be cancelled if the head of the Bar's bursary committee — a member of the protesting group — resigns

Both sides to the dispute were reluctant to comment, but it is understood that the black group will attempt to persuade the bank to go

ahead with its hefty donation

However, the group also feels the issues of transformation are so important that they must take priority, and that the group cannot be "held to ransom" by pressure to change tactics to satisfy the bank

While some key figures in the black group say the issue is now a matter for discussion between the parties, and predict a meeting in the next few weeks, officials on the other side say they have still had no reply to their request for a meeting to deal with the complaints



REUNITED . . . Helene Pastoors hugs her grandson upon her arrival at Brussels International Airport on May 11 1989 after her release from a South African jail where she was serving 10 years for treason

STILL LIVING ABROAD Hein Grosskopf who hasn't returned to South Africa, apparently for fear of assassination

Regime's 'most wanted' apply to TRC

FORMER UMKHONTO We Sizwe members responsible for 13 major acts of sabotage in South Africa during the liberation struggle that killed more than 20 people and injured some 250 others will apply to the TRC for amnesty tomorrow

All were members of the Special Operations Unit of MK and include some of the most wanted people in the old South Africa

Included is rebel Afrikaner Hein Grosskopf, who was named public enemy number one by the apartheid regime after a car bomb exploded outside Wits Command in Johannesburg on July 30, 1987 - killing one soldier and injuring 68 other people

Grosskopf has not yet made a public appearance in South Africa, it is believed, for fear that he may be assassinated

However, he will have to appear before the TRC in Pretoria together with his unit commander Johannes Molefi, Aboobaker Ismail, who as overall commander of Special Operations and has applied for amnesty for all Special Operations activities, and Colin Mark de Souza, who did reconnaissance work for the vehicle bomb attack on Wits Command.

Another is Dutch Belgian citizen Helene Pastoors (56) who was detained in 1985 with her ex husband Klaas de Jonge under the 90-day law

Helene Pastoors and Hein Grosskopf, were just some of members of MK's Special Operations Unit most wanted by the former government for 13 major acts of sabotage **DES BLOW** reports.

De Jonge managed to escape and took refuge in the Netherlands Embassy for years

Pastoors was sentenced to 10 years for treason in May 1986 when she was found guilty of assisting De Jonge establish an arms cache in Halfway House for the ANC

Now Pastoors, who was released to Belgium in May 1989, is asking for amnesty for her part in the bombing of the SAAF headquarters in Church Street, Pretoria, in which two ANC cadres and 19 other people - including eight members of the South African Defence Force, mostly officers, and 11 civilians - were killed and 217 people injured

Pastoors will admit she drove a car-bomb vehicle containing explosives to an address in Pretoria where two MK operatives, who died in the blast, took over the vehicle for the attack the following day

The 11 civilians killed were Thomo Honas Mohlahlo, Lengoi Moses Maimela, Sekgoetsi Jim Magatsela, Mogale Judas Maimela, Sharon De-

siree Bos, Miss A Meiring, Joseph Keane Sambo, Pedros Nterno Kho-hiwe Sharon de la Harpe, Stephen John Page and Adriana Meyer

Pastoors, Johannes Molefe, who helped plan the attack, and Aboobaker Ismail have applied for amnesty

The 11 other attacks for which former ANC cadres are asking for amnesty are

□ The bombing of Sasol 1 and 2 and the Natref refineries with limpet mines by David Moisi and Velaphi SF Msane, in which security guard Robert Nthembalazeni was injured

□ The attack on the Voortrekker Military Base on August 12, 1981 with five 122 mm Russian rockets, which resulted in the deaths of Miss Elsie Sekana and Zahed Patel Aboobaker and Johannes Molefe have applied for amnesty for this

□ The bombing of the Ciskei Consulate at the Carlton Centre, Johannesburg by Mohammed Iqbal Shaik and Mohammed Abdullah Ismail on August 26, 1983 The two men

and Aboobaker Ismail have applied for amnesty for this act

□ The attack on the Department of Co-operation and Development in Johannesburg in which Mohammed Shaik claims he acted alone under the command of Ismail in placing a limpet mine at the offices of the Department in Marshall town, Johannesburg on December 7, 1983 A security guard was injured Both Ismail and Shaik have applied for amnesty for the incident.

□ The explosion at the Department of Foreign Affairs in Market Street, Johannesburg on December 15, 1983 in which seven people were injured in the attack including Piet Tlou of Diepkloof, George Lekwa wathe of Molapo, Gertrude Tshabalala of White City, Molefe Madonsela of Market Street and Tilda Mphangoma of Soweto Ismail and Shaik have applied for amnesty for this attack

□ The August 17, 1984 attack on the SAP Soweto East Branch, Roodepoort City Centre, with a limpet mine that injured five policemen, including the SAP commandant for Soweto East, and two civilians, Anna Folosi and Iris Lombard Aboobaker Ismail has applied for amnesty alone for this attack

□ The attack on the offices of the Railway Police and Directorate of Coloured and Indian Affairs in Johannesburg on August 24, 1984,

where Mohammed Shaik placed a limpet mine in the railway headquarters on the orders of Ismail, injuring five people

Ismail and Shaik have applied for amnesty for this attack

□ The injury of four people on September 3, 1984 when Shaik placed a limpet mine at Home Affairs in Harrison Street, Johannesburg

Ismail and Shaik have applied for amnesty for this incident

□ The attack on the SADF Medical Command, Nugget Hill, Hillbrow on May 28, 1985, which was committed by Shaik, under the command of Ismail, who ordered Shaik to place a limpet mine in the building

Both Ismail and Shaik have applied for amnesty for this explosion which injured 17 people

□ The attack on John Vorster Square, Johannesburg, on March 4, 1988, for which Ismail alone is applying for amnesty There were four victims in the attack two police members and two civilians

□ The attack on the Krugersdorp Magistrate's Court and adjacent police station where Mohammed Shaik placed a car bomb at the court on March 17, 1988 killing three people - two security personnel and one civilian, Frans Mdalose - and injuring 20 others, 17 of them women court employees

Shaik and Ismail have applied for amnesty for this attack

TRC to hear about spate of killer MK bombings

Star 4/5/98 (272)

By ROBERT BRAND

Details about a series of bomb attacks which killed more than 20 people and injured 350 will be revealed in the amnesty hearing of nine former members of Umkhonto weSizwe, the ANC's military wing, which starts today

Among those who have applied for amnesty is Aboobaker Ismail, alias Rashid, a former commissar and later head of MK's special operations unit, which was responsible for a wave of bombings during the 1980s

Ismail, now a senior official

in the Defence Secretariat, was involved as a planner or active participant in 13 cases to be heard by the Truth and Reconciliation Commission's amnesty committee in Pretoria

They include the 1983 car-bomb attack at the SA Air Force's headquarters in Church Street, Pretoria, in which 19 people were killed and more than 200 injured

Other high-profile cases include the 1988 bombing of the Krugersdorp Magistrates' Court, which resulted in three deaths and 20 injuries, and the 1987 car-bomb explosion at the SADF's Witwatersrand Com-

mand in Johannesburg, in which one soldier died and 68 people were injured.

Two of the applicants - Hein Grosskopf, son of a former editor of Beeld, and Belgian national Helene Passtoors - will have to return to SA to testify, the TRC has said

Grosskopf, who left SA after being accused by former law and order minister Adriaan Vlok of complicity in bombings, has applied for amnesty for his part in the bombing of Wits Command. He now lives in England

Passtoors, who delivered the bomb used in the Church Street

attack, reportedly lives in Chile.

They are expected to testify during the last week of the hearing, which will be held at the Idasa Centre in Pretoria under the chairmanship of Mr Justice Selwyn Miller

■ One of the amnesty applicants, Mohammed Shaik, was wrongly identified in The Star last week as SA's consul-general in Hamburg. The Mohammed Shaik who is applying for amnesty for his part in several bombings is in fact someone else. The Star apologises

► List of attacks

Page -

Amnesty pleas for high-profile MK attacks to be heard

Star 4/5/98 (252)

Spotlight to be placed on activists'

underground activities during the 80s

Amnesty applications from nine members of the Special Operations Unit of MK covering high-profile bombings in Gauteng and the Free State between 1980 and 1988 will be heard in Pretoria from today.

Applicants have applied for amnesty for various attacks, including those on Sasol oil refineries, the Voortrekkerhoogte military base, SA Air Force Headquarters in Pretoria, Wits Command, the Krugersdorp Magistrates' Court, police stations and other government offices.

More than 20 people were killed and more than 350 injured under the Promotion of National Unity and Reconciliation Act, victims may attend hearings, testify and adduce evidence.

The hearings are to last three weeks. Other applications relating to MK Special Operations Unit attacks, particularly those in KwaZulu Natal, will be heard later.

Applications include amnesty for:

■ **Attacks on Sasol 1 and 2, and Natref oil refineries:** Aboobaker Ismail, David Moisi and Velaphi S F Msane for limpet mine attacks on the oil refineries on June 1 and 2 1980 in Sasolburg and Secunda. The three claim they were members of the Special Operations Unit. Security guard Robert Nthembalazeni was injured in the Natref attack.

■ **Attack on the Voortrekkerhoogte military base:** Ismail and Johannes Molefe for a rocket attack on Voortrekkerhoogte on August 12 1981. Ismail claims he was the commissar of Special Operations and Molefe was a member of Special Operations. During the attack, five 122mm Russian rockets were fired from an open space situated near Laudium. Elsie Sekana and Zahed Patel were injured.

■ **Bombing of the SA Air Force headquarters in Church Street, Pretoria:** Ismail, Hélène Passtoors and Molefe for a car-bomb explosion on May 19 1983.

Ismail was still the commissar of Special Operations and the attack occurred under his command. Molefe was involved in the unit that planned this attack. Passtoors was ordered to drive a vehicle containing explosives to a prearranged place in Pretoria, where it was to be picked up by other operatives for the attack. Twenty-one people, including the two bombers, were killed and 217 injured.

■ **Attack on the Ciskei consulate, Carlton Centre, Johannesburg:** Aboobaker Ismail, Mohammed Iqbal (Mo) Shaik and Mohammed Abdullah Ismail for

the limpet-mine explosion on August 26 1983. Aboobaker Ismail states that this operation was carried out by members of MK under his command. The other two applicants were involved in the placing of the limpet mine. No one was injured.

■ **Attack on the offices of the Department of Co-operation and Development, Johannesburg:** Aboobaker Ismail and Shaik for a limpet-mine attack on December 7 1983. Ismail states that the attack was carried out under his command. Shaik used material supplied to him by his commander and states that he acted alone. A security guard was injured.

■ **Explosion at the Foreign Affairs Department, Johannesburg:** Aboobaker Ismail and Shaik for placing a limpet mine on December 15 1983. Seven people were injured.

■ **Attack on the SAP Soweto East Branch, Roodepoort:** Aboobaker Ismail, for placing a limpet mine on August 17 1984. The explosion injured five policemen and two civilians.

■ **Attack on Railway Police offices and directorates of Coloured and Indian Affairs, Johannesburg:** Aboobaker Ismail and Shaik for placing a limpet mine on August 24 1984. Five people were injured, including a number of railway policemen.

■ **Attack on the Department of Internal Affairs, Harrison Street, Johannesburg:** Aboobaker Ismail and Shaik for placing a limpet mine on September 3 1984. Four people were injured.

■ **Attack on the Medical Command of the SADF in Hillbrow:** Aboobaker Ismail and Shaik for a limpet mine explosion on May 28 1985. Seventeen people were injured.

■ **Attack on John Vorster Square, Johannesburg:** Aboobaker Ismail for the placing of a limpet mine on March 4 1986. Four people were injured.

■ **Attack on Wits Command, Johannesburg:** Molefe, Hein Grosskopf, Colin Mark de Souza and Aboobaker Ismail for a car-bomb explosion on July 30 1987. One soldier was killed and 68 people were injured.

■ **Attack on the Krugersdorp Magistrates' Court and adjacent police station:** The amnesty applicants are Aboobaker Ismail, who states he was the chief of ordinance and member of the military headquarters of MK at the relevant time, and Shaik, who was responsible for placing a car bomb at the court on March 17 1988. Three people died and several people were injured.

Former MK man opts out of TRC hearing

ART 4/5/98

Grosskopf sends fax

(252)
Pretoria - Former Umkhonto weSizwe (MK) operative Hein Grosskopf today sent a faxed message to the Truth Commission's amnesty committee, confirming that he would not be attending the amnesty hearing for himself and nine other members of an MK Special Operations unit which started here today.

Mr Grosskopf has applied for amnesty for one of 13 bombing incidents for which the unit was responsible between 1980 and 1988 in which more than 20 people died and more than 350 were injured, and for which they are now applying for amnesty.

This was the car-bomb attack on the Wits Command of the former SA Defence Force at the corner of Quartz and De Villiers streets in central Johannesburg on July 30, 1987. One soldier was killed and 68 people injured in the attack.

At the start of today's hearing, Truth Commission evidence leader Andre Steenkamp told amnesty panel chairman Judge Selwyn Miller that commission staff had been in telephonic contact with Mr Grosskopf early today, and that he had sent the fax to confirm his remarks in the telephone conversation.

This was that he would not attend the hearing, but that he remained willing to answer questions from the Truth Commission, as he had already done.

Judge Miller said the incident for which Mr Grosskopf was applying for amnesty required a public hearing

YELD



ON THE TRUTH COMMISSION

because it involved gross human rights abuses.

"I think at this stage the correct thing to do would be to remove his application from the roll," said Judge Miller.

Mr Grosskopf's application could be reinstated at a later stage, he added.

The hearing then continued with evidence from amnesty applicant Aboobaker Ismail - also known by his MK name of Rashid - who was involved in the instruction and command of MK forces from June 1978 up to April 1994.

Mr Ismail acknowledged that because of his leadership positions, he was "probably criminally and civilly responsible for MK operations in general and for (MK's) Special Operations in particular", his legal representative Wim Trengove SC told the hearing.

■ In a report last week, SA High Commissioner to Germany and former senior government intelligence officer Mo Shaik was incorrectly named as one of the 10 amnesty seekers.

One of the applicants is Mohammed Shaik, but he is not Mo Shaik. The error is regretted.

Tough new sentences for violent acts of crime

JOVIAL RANTAO

(252)

CT 4/5/98

MAGISTRATES and judges will wield enough power from today to sentence criminals convicted of serious crimes such as murder, armed robbery, car hijacking and indecent assault to minimum sentences of 25 years without parole

Today is the first day on which the judiciary can implement the Criminal Law Amendment Act, 1997 (Act 105 of 1997), which became effective on May Day, which was a public holiday

The law, described by politicians as an emergency measure to fight crime, forms part of a myriad of legislation being debated in the Portfolio Committee on Justice aimed at strengthening the arm of the law against criminals.

Justice Minister Dullah Omar was confident yesterday that the law would have a positive effect in the fight against violent crime

Omar's spokesperson, Mr Paul Setsetse, said. "We're confident that this act will assist in dealing with the problem of crime. The message we're sending with this act is that the law is going to get tough on criminals. Whenever they're arrested and convicted, they will serve the entire sentence without the possibility of an early parole."

The act is a stopgap measure that will be reviewed after two years by the President. Depending on the crime levels the President, with the concurrence of Parliament, may extend it for one year at a time or repeal the law, by proclamation in the Government Gazette.

Section 51 of the act provides for the imposition of minimum sentences by a High Court or Regional Court for people convicted of murder, rape and robbery when a dangerous weapon or firearm has been used

Such sentences would also apply to indecent assault on boys under 14, girls under 12, housebreaking with the intent to commit murder, rape or robbery and any crime relating to exchange control, corruption, fraud, forgery, uttering or thefts involving amounts of more than R500 000

The Department of Justice says, however, that provision is made for lighter sentences to be given if the court is satisfied that extraordinary circumstances exist and if the accused was under 18 at the time of the offence

In such cases the presiding officer would be required to note the reasons for not imposing the prescribed sentences

Diversity the antidote to biased judges

The legitimacy of SA's legal system seems to be safe for now although there are accusations of personal bias among judges. There will always be biases, argues Steven Friedman, but the trick is to ensure these are as varied as possible

FOR a supposedly lawless society, South Africans have a remarkable respect for our courts. Two recent incidents have, in almost unremarked ways, confirmed this.

The first was the SA Rugby Football Union case. After Sarfu dragged our first head of state elected in a non-racial election into court to explain himself, a white judge, William de Villiers, who once fought against the admission of blacks to the Pretoria Bar backs Louis Luyt and throws out the commission. He does not bother to say why.

All this might create the impression that the decision has more to do with the judge's political preferences than with the law. Since the ruling was also handed down at a time when racial tensions seem to be rising, we would expect it to prompt an explosion of anger from government and black interest groups.

Given experiences in other countries, we might also expect calls for the replacement of judges with De Villiers's apparent inclinations or even an attack on the judiciary's independence.

Reaction has instead been cautious and muted, while government has responded merely by promising to appeal.

The De Villiers ruling concurred with another sign that society's divisions run through its courts—opposition by KwaZulu-Natal judges to the nomination of a black colleague, Vuka Tshabalala, to the number two spot in the provincial judiciary. Predictably, Tshabalala saw this as resistance to "transformation". It is a fair bet that black opinion lined up on his side, much of white sentiment with the other judges. There are, however, no signs of a government-judiciary confrontation over the issue.

The chances are that it will be settled at the cost of some under-the-breath muttering.

Comment on these events has seen them as a worrying sign political and racial tensions, it is argued, are threatening universal respect for judges and we must act now. On one level, the worry is understandable. Most of us carry in

our heads a notion of judges as ethereal beings who decide issues on an entirely impartial interpretation of the law and attract universal respect as a result.

Given that, the news that race and political preferences are issues in the judiciary comes as a shock. But it seems overstated—largely because our ideas about judges are a myth, which are not shared by many other democratic societies.

Judges are, contrary to the belief of many members of the bench, human beings who, like the rest of us, have biases. Where legal rulings rely on interpretation, their opinions will be shaped by those inclinations.

To some judges, the death penalty is an essential weapon in an orderly society, to others it is a gross violation of human rights.

The differences between them have nothing to do with the law and everything to do with the way they see the world. For this reason, we are hardly the only society in which a ruling with political implications will depend on which judge makes the decision in the US, this has long been accepted as a fact of judicial and political life.

If the reality that judges have prejudices is not a cause for alarm, neither is the likelihood that some judges are going to antagonise parts of the society—while other judges irritate other sectors.

Societies are, therefore, not in trouble if they recognise the judiciary is always biased because no one has yet found an alternative to using people to dispense justice. They have a problem only if the legitimacy of the judicial system is challenged.

"Legitimacy" is a term we often use but rarely understand. A legitimate authority is not one which everyone loves—it is one which most people, and particu-



Sarfu president Louis Luyt arrives at the Pretoria High Court during the court challenge by Sarfu of a commission of inquiry into the rugby union

(1972) 004/5/98

Party and then the African National Congress. In all of these cases, losers accepted the decisions.

Like Fleet Street journalists who attract attention to themselves by trumpeting the hardly remarkable fact that inequities created in 300 years of history rule persist after four years of democracy, we often become alarmed at evidence that, predictably, our racial and other divides persist. A more sensible analysis assumes this, and then looks at how we are coping with them.

On this measure, recent events in the judiciary suggest we are not doing badly. But can this continue? Given our society's tensions, losers, either government or opposition, will begin challenging the legitimacy of the courts?

Perhaps. But that would be a problem, since it is virtually impossible to sustain a democracy if losers do not respect court rulings. So do we not need to act to prevent this?

The first answer is that this will probably depend as much on events outside the courts as those within them. If the political climate becomes more polarised, the judiciary will face pressure, whatever we do about the legal system. Within the system there is a fairly

simple solution, to ensure that the judiciary remains diverse, racially and politically.

One of the reasons why government may have taken the De Villiers ruling in its stride is that the president's legal adviser has reportedly told him that his chances of winning an appeal are excellent. That, too, is a sign of health since it shows that there is not only one type of judge on our benches.

The reason other democracies tolerate the inevitable bias in their judges is that they know that there are also other judges with other biases. Indeed, some try to ensure this. In the US, judges are elected up to a certain level, appointed through a political process above it, in Germany, constitutional judges are chosen by bargaining between the parties. In both cases, the fact that the judiciary is political is assumed and arrangements are made to ensure diversity in the courts.

However much anger the De Villiers ruling and the attitude of the KwaZulu-Natal judges caused, the answer is not to ensure all judges share the values of the new order. If they do, another set of losers will begin to feel that rulings are not legitimate.

If De Villiers's ruling is rejected on appeal, for example, Louis Luyt's supporters will mutter as much about judicial bias as government's do now. As long as the grumbling is directed at particular judges rather than the system, it is in fairly good shape.

While the racial composition of our bench needs to change steadily, there will always be a need for diversity in the judicial system. How we achieve it is a matter for debate, but allowing for a political choice of senior judges in a way which ensures that those sympathetic to the political minority will be guaranteed a proportion of appointments may be one answer.

There is no such thing as an unbiased judge we should therefore try to ensure that our justices have as varied a set of biases as possible.

□ Friedman is director of the Centre for Policy Studies.

Friends leave Barnard high and dry as he closes his case

Former Civil Co-operation Bureau agent Ferdi Barnard stood alone in the dock yesterday, all but abandoned by former friends

He closed his case in the Pretoria High Court without calling any witnesses after he was unable to find even one witness who was prepared to testify for him

He has been charged, among other things, with the murder of anti-apartheid activist David Webster.

Advocate Faan Coetzee, appearing for Barnard, told the court he had consulted several possible witnesses, but they were extremely hesitant to come forward because they were implicated in crimes and the defence could not offer them Section 204 indemnities

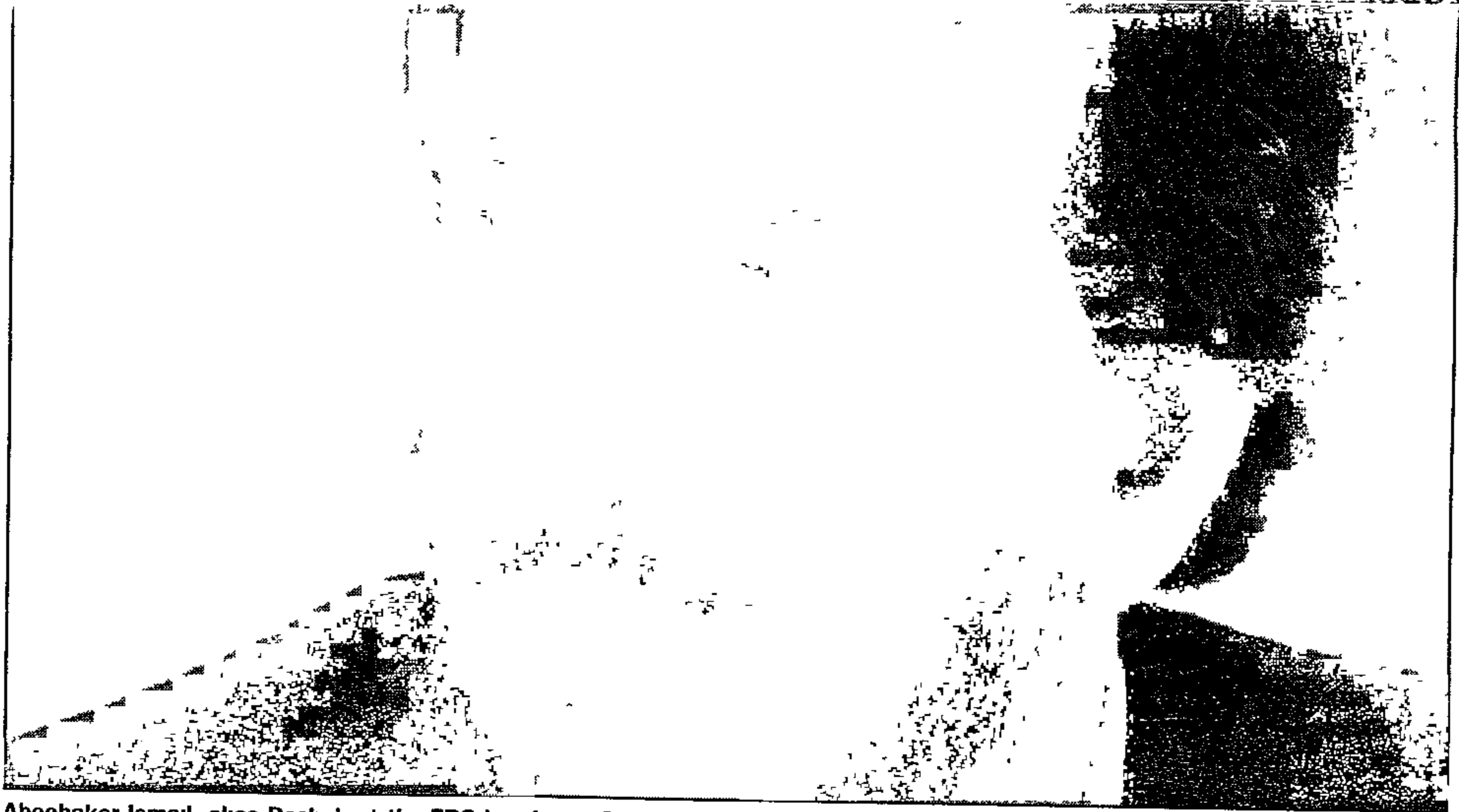
(257)
He said some witnesses wanted to testify but had difficulties of their own

Coetzee referred to Barnard's own evidence, when he had told the court that friends were few when days were dark

Barnard has been supported by his father - a former police officer - and other family members since the start of the trial in February

The trial was postponed to May 14 at the request of prosecutor Anton Ackermann SC, who said he needed time to prepare final argument.

Mr Justice Johan Els said he would, after completion of final argument, postpone the trial for a few days before delivering judgment - Sapa



Aboobaker Ismail, alias Rashid, at the TRC hearing in Pretoria yesterday. He was the mastermind of the Church Street, Pretoria, bomb blast that claimed 19 lives.

PIC LEN KUMALO

Church Street bombing: MK chief regrets

By McKeed Kotlolo

THE MASTERMIND behind the 1983 Church Street, Pretoria, bomb explosion and former commander of Umkhonto we Sizwe's special operations unit yesterday expressed regret at the death of innocent civilians killed in the blast.

Mr Aboobaker Ismail, alias Rashid, is seeking amnesty at the Truth and Reconciliation Commission hearing in Pretoria for operations carried out by units under his command between 1980 and 1987 and for his role as chief of Ordnance from 1987 onwards.

He also expressed pride in the "bravery, discipline and selfless sacrifice of the cadres in special operations" under his command.

Ismail, who said the ANC never set out to deliberately attack civilian targets, told the hearing "I regret the death of innocent civilians killed in the cause of the fight for justice and freedom."

He said that in the course of war lives were lost and the death of innocent people became inevitable.

Ismail, who masterminded the 1983 Church Street bomb blast at the SA Air Force headquarters in Pretoria which killed 19 people, 11 of whom were military personnel, said the military personnel were the targets and the timing was right because the car that contained the bomb was parked at the time when they would

be queuing for transport home.

Ismail, who left South Africa for Belgium in 1976 and later trained in the German Democratic Republic, said he was appointed chief instructor at Funda camp when the late president of the ANC Mr Oliver Tambo received a mandate to establish special units designed for maximum impact attacks and also to "inspire the oppressed while weakening the regime".

He told the TRC that he accepted responsibility for all the incidents, including those committed without his authorisation, during his period as commander until the integration of MK into the SANDF.

He also gave details of 13 operations, including attacks on Sasol 1 and 2, which occurred between 1980 and 1987.

● Sapa reports that TRC investigative unit head Mr Dumisa Ntsebeza recused himself yesterday from the TRC hearings of former SA National Defence Force chief General Georg Meiring and retired General "Kat" Liebenberg.

Meiring and Liebenberg are appearing before the TRC in Cape Town to answer questions about the October 1993 SADF raid on a Transkei home in which five children were shot dead.

Advocate Klaus von Lieres, representing the generals, argued that Ntsebeza should recuse himself from the hearing because he had previously represented the families of the five children killed in the raid.

(252)

South African 5/19/98

ANC security men seek amnesty for Shell House shootings

8.11.5/5/98

(252)

STAFF REPORTER

The Truth and Reconciliation Commission will hear applications next Monday from 13 ANC security men seeking amnesty for eight deaths during the Shell House shootings in central Johannesburg on March 28, 1994, the TRC announced yesterday.

Among the applicants is Gary Kruser, former MK member and current head of the SAPS VIP Protection Services, who was in charge of security

at Shell House at the time of the shootings. Nineteen people were killed and scores injured in the city centre on that day when IFP marchers clashed with the police and ANC security guards. Some were shot outside the ANC's Shell House headquarters, others at its Lancet Hall provincial office and the Library Gardens.

A marathon inquest for the Shell House victims was held in the Johannesburg High Court last year. Mr Justice Bob Nugent found there was no evi-

dence that Shell House was about to be attacked by IFP marchers, and also that there was no justifiable reason why the marchers were shot.

The applicants have applied for amnesty in relation to the Shell House and Lancet Hall shootings.

The hearing will be held at the Central Methodist Church.

Ten of the 13 applicants have applied for amnesty for killings near Shell House. They are: Kruser, Bethuel Mondli Zuma, Marainsammy Singa-

ram, Jacob Modise Molefe, Bafana Eddie Khumalo, Colson Tebogo Beea, Stephen Marole Moolman, Moses Veli Lale, Neo Potsane and Mathedi Samuel Mangena.

The other three, Vukuzenzele Alpheus Magagula, Smangaliso Patrick Simelane and Wellington Norman Mtshemla, have applied for amnesty for acts committed near Lancet Hall on the same day. An estimated 84 people were injured in shootings in different parts of the city on that day.

Shell House amnesty applicants named

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Sowetan 5/5/98

Political Staff

THE names of 13 African National Congress members who applied for amnesty for their part in the 1994 Shell House shootings have been released by the Truth and Reconciliation Commission

In a statement released yesterday the TRC said the 13 whose names have been made public for the first time, were applicants involved in the

shooting and killing of eight people in central Johannesburg on March 28 1994

They are to appear before the TRC's amnesty committee at the Central Methodist Church in Johannesburg next Monday

The ANC members have applied for amnesty in relation to the shooting of Inkatha Freedom Party marchers near ANC headquarters in Johannesburg. Ten of the 13 applicants who

applied for amnesty for the killings near Shell House are Gary Kruser, Bethuel Mondli Zuma, Maransammy Singaram, Jacob Modise Molefe, Bafana Eddie Khumalo, Colson Tebogo Beea, Stephen Marole Moolman, Moses Veli Liale, Neo Potsane and Mathedi Samuel Mangena

Wellington Norman Mshemla, have applied for acts committed near Lancel Hall on the same day. The applicants are seeking amnesty for their roles in the killing of Siphwe Qondokwakhe Vlakazi, Mfanizakhe Majozi, Sibuku Petros Langa, Zantonto Johannes Khumalo, Banda Wellington Sithole, Raphael Veli Niombela, Mziwakhe Jeremiah Khanyile and Conrad Ncobela Kohla. The shootings occurred during an

anti-election protest march by IFP supporters in central Johannesburg. The marchers went past ANC national and provincial offices, prompting the shootings. A subsequent inquest, chaired by Judge Robert Nugent in the Johannesburg High Court, found no one criminally liable for the deaths. Nugent, however, found negligence on the part of the police. IFP and the ANC that could have led to the events

100 MORE PROSECUTORS

Justice system takes the hi-tech route

(252) CT 5/5/98

AN AUTOMATED system of payment for maintenance, bail and fines is to be introduced by the Department of Justice to improve efficiency, cut administrative costs and reduce the opportunity for corruption and theft. Justice Writer **RONALD MORRIS** reports.

THE frustration and indignity women endure in queueing for child maintenance payments are soon to become a thing of the past — the Department of Justice is to go hi-tech, enabling maintenance, bail and fines to be paid through banks, auto-teller machines, court, post office or even supermarkets

Justice Minister Dullah Omar is expected to disclose this when he addresses the National Council of Provinces (NCOP) soon about the Department of Justice's transformation from 11 apartheid-based departments into a single national structure.

The new arrangement will replace the time-consuming cash deposit system in which R95 million in bail money, maintenance payments and fines is handled at courts every month

This system not only entails a heavy administrative load, but it is also vulnerable to corruption, theft and robbery

Once the automated system is up and running, it will end the inconvenience to women and children and effect a large saving for the department

A joint venture between justice, the police and the Department of Correctional Services to implement video conferencing is also intended to increase efficiency

It is envisaged that video conferencing could be used for arraignments and first hearings and conducted from police stations. This would curtail the movement of prisoners between police stations, prisons and courts and reduce opportunities for escape and the congestion of courts

The facility could also be used for training and national management meetings, reducing the time spent away from the office and eliminating travel costs.

Omar is also expected to announce the automation of the attorneys-general offices, for which R19m has been earmarked

Modern information technology infrastructure for the National Crime Prevention Strategy is to be installed

These systems include a case tracking system, Jutastat, to reduce the time spent researching case references for judgments.

Information about cases tried in the courts and High Court rulings would be recorded on compact disc

The system would make it easier for prosecutors, magistrates, attorneys, judges and legal administrative staff to prepare for cases — thereby lessening backlogs caused by delays in preparing for cases

The upgrade also includes the latest version of Word Perfect, Internet for research and E-mail

Chief magistrates' offices are to be included in the network and the department is to ensure that everyone in an attorney-general's office has a computer.

Omar is also expected to deal with the controversial proposals for a "super attorney-general", to be known as the National Director of Public Prosecutions, and the establishment of a National Prosecuting Authority.

Should the National Prosecuting Authority Bill become law, it would have far-reaching effects on the administration of justice and lead to a uniform prosecuting policy throughout the country.

It would also ensure that priority was given to the prosecution of crimes against women and children, drug-trafficking, corruption, money laundering and gang-related crimes.

Although opposition parties have argued that a super

attorney general would be a political appointment, the bill provides for constitutionally guaranteed independence and makes interference in the duties of the National Prosecuting Authority a criminal offence

The loss of several experienced prosecutors countrywide has led to widespread criticism, but Omar is expected to announce treasury approval for the creation of additional posts. About 330 critical posts have already been advertised

The department has also launched a range of training programmes at the Justice College

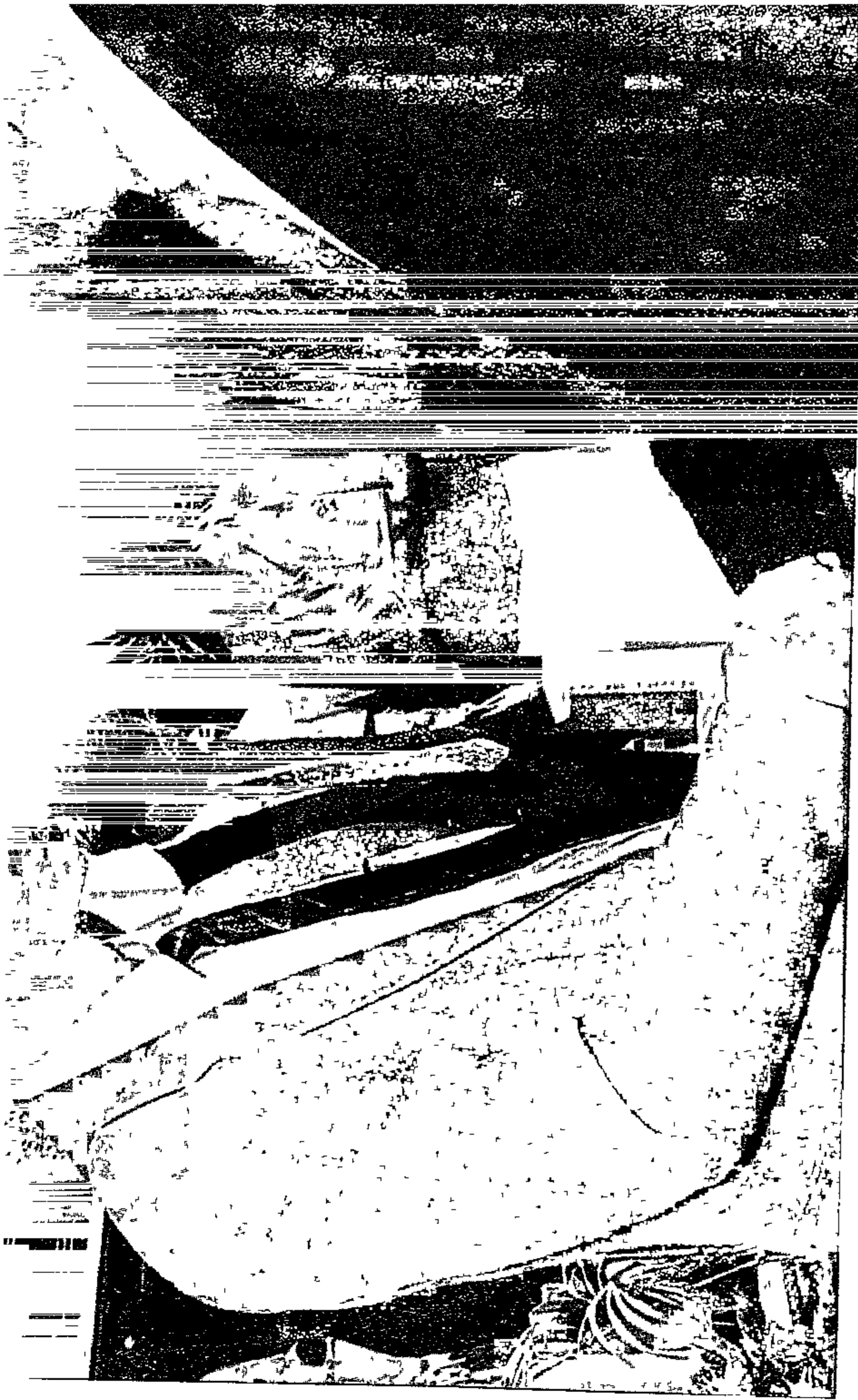
Magistrates have been given training in social context issues and fundamental rights. Under a Canada-South Africa project, new judges are to undergo an orientation programme, while a judicial education programme dealing with changes to the substantive law is to be launched

In terms of the National Crime Prevention Strategy, the Department of Justice has trained 100 candidate prosecutors to help improve the quality of prosecutions.

Another of the department's initiatives are the Pre-Trial Services which are offered at the Mitchells Plain Magistrate's Court in collaboration with the police. The service is designed to avert the risk of releasing dangerous criminals, in the absence of information about previous convictions, on bail. Now, when a person is arrested, fingerprints and photographs are taken and a thorough check made of personal information provided by the suspect, including his or her address.

Only when the police and prosecutors are satisfied that the person does not pose a threat to the community and will stand trial, will he or she be released on warning and with strict conditions

Video conferences could be used for first arraignments



RECONCILED Neville Clarence, left, who was blinded by the 1983 Church Street bomb blast, met the mastermind behind the ANC's bombing campaign, Aboobaker Ismail, in the courtyard of the Idasa Kutlwanong Democracy Centre

Bomber and blinded victim shake hands

ET. 5/5/98

PICTURE PRETORIA NI

(2572)

NICOLENE OLCKERS

PRETORIA Fifteen years after he was blinded in the Church Street bomb attack, Mr Neville Clarence met the mastermind behind the ANC's bombing campaign and the two shook hands in the courtyard of the Idasa Kutlwanong Democracy Centre

The Truth and Reconciliation Commission is hearing the amnesty application of Mr Aboobaker Ismail, 43 who accepted full responsibility for the 1983 blast. In a meeting arranged by *Pretoria News*, the men stood face to face and shook hands

Ismail, who is head of the policy and planning section of the Defence Secretari-

at, looked into the scarred eyes of Clarence, a former Air Force captain, and said "This is very difficult, I'm sorry about what happened to you"

Clarence said he understood, adding "I don't hold any grudges" Ismail told Clarence he thought they should meet again "Talking about it is the only way to become reconciled," he said

When Clarence agreed that they had been soldiers fighting on opposite sides in a war, tears filled Ismail's eyes and his mouth quivered slightly

The men exchanged telephone numbers before ending the meeting with a firm, lingering handshake

Clarence said afterwards that he could not comprehend the full extent of the healing that had taken place at the meeting

"I came here today partly out of curiosity and hoping to meet Mr Ismail

"I wanted to say I have never felt any bitterness towards him. It was a wonderful experience. I was a bit nervous at first and I know he was too

"Reconciliation does not just come from

one side. We were on opposite sides and this instance, I came off second best"

Asked if he had forgiven Ismail, Clarence answered "Most certainly" Of Ismail's submission, Clarence said "I was very impressed with his submission, although I did not agree with his strategies and doctrines, and I was a little concerned about the factual accuracy of the evidence on the bomb blast

"I believe the freedom struggle was justified, but I don't necessarily agree with the tactics"

Clarence, who runs a computer company that specialises in equipment for blind people, said he would meet Ismail again

**MIK IMAN ACCEPTS
BLAME — PAGES 5**

Relief for overworked prosecutors

ET 5/5/98

(25A)

ANDRE KOOPMAN

SINCE the implementation of new bail legislation that makes it more difficult for dangerous offenders to get bail, awaiting-trial prisoners had increased from 18 000 to 43 000 and few violent offenders were being granted bail

This was said yesterday by Justice Department director-general Mr Jasper Noeth in a briefing to the National Council of Provinces select committee on security and justice chaired by Mr M Moosa

Noeth also said that pressure on overworked prosecutors would be boosted by the creation of 193 new posts this year

One hundred of these posts would be filled by graduates who had received "fast track" training, including practical experience, since July last year.

They would enter the system on June 1 and would immediately be able to handle cases

The Office for Serious Economic

Offences would this year, for the first time, be fully staffed with 29 trained personnel

Another 42 regional courts would be established, as this was the area that most urgently needed upgrading

Justice Department deputy director-general Mr Hassan Ebrahim said that in the 1998/1999 Justice Department budget of R2,1bn, 82% was spent on personnel and 18% on infrastructure and logistics. The department, he said, wanted to reduce the imbalance and spend more on delivery.

Ebrahim said that R109m was for judges' salaries and R392m for other bodies, such as the gender and youth commissions, with R1,6 billion left for the department's core functions of administering justice

Moosa said departmental teams from Justice, Safety and Security and Correctional Services had all been asked to stay for the briefings, in line with a "cluster approach" to the criminal justice system

Commenting on the creation of additional posts, Mr Paul Setsetse, spokesperson for Justice Minister Dullah Omar, said that with the appointment of new prosecutors and additional personnel in key positions, such as in the Office for Serious Economic Offences, "we are confident that this will bring a great deal of relief to overworked prosecutors"

He said the Office for Serious Economic Offences had been seriously understaffed, and that the staff increase would help address the growing problem of economic crime

The sharp increase in the number of awaiting-trial prisoners was to be expected following the implementation of the new bail laws, Setsetse said

Communities seeking relief from crime had demanded that those charged with serious crimes such as rape, murder and car hijacking should be held behind bars, and the department was responding to these demands

MK man accepts blame

(252)

ET 5/5/98

ROBB NORTHEY

PRETORIA Former uMkhonto weSizwe Special Operations commander Mr Aboobaker Ismail said he was proud of the bravery, discipline and selfless sacrifices made by cadres under his command but regretted the deaths of innocent civilians killed in the ANC's fight for justice and freedom

"The ANC has never been callous in its struggle. We never set out deliberately to attack civilian targets," Ismail said during his testimony to the TRC amnesty committee yesterday

"Many MK cadres laid down their lives in the pursuit of freedom for all in South Africa. They worked in one of the most difficult and dangerous arenas of struggle for a non-racial and democratic South Africa," Ismail said

He said MK cadres faced summary execution, being tortured to death or sentenced to hanging or lengthy terms of imprisonment

He said bombings had been carried out to inspire the oppressed and to create an atmosphere of ungovernability

He wants amnesty for 13 operations carried out by MK operatives under his command between 1980 and 1988

Mr Wim Trengove, SC, appearing for Ismail, told the amnesty committee that Ismail accepted full criminal and civil

responsibility for the attacks

Ismail joined the SA National Defence Force when MK was disbanded in 1993 and is presently the chief of policy and planning in the Department of Defence

Ismail and former SACP head Joe Slovo planned and got the go-ahead for the Church Street bombing in May 1983 in which 19 people, including 11 military officers, died and 217 were injured when a

car bomb exploded outside the South African Air Force headquarters

The operation came in the wake of an SADF cross-border raid into Lesotho which killed 42 ANC supporters and Lesotho civilians, and the assassination of Ruth First in Maputo

*We never
set out
deliberately
to attack
civilians*

Ismail told the commission he had become active in the ANC in 1973 and gone into exile in 1976. After undergoing military training in East Germany, he became a military engineering instructor at the ANC's Funda camp in Angola, later being transferred to the Special Operations Unit. Within months he was promoted to the unit's command structure and in 1987 he was promoted to MK's headquarters' staff. Ismail also accepted responsibility for the car bomb which exploded outside the Krugersdorp police station on March 17, 1988 — the day the Sharpeville Six's appeal, for the killing of a town councillor, was heard in the Pretoria Supreme Court

Ismail 'will not apologise for attacks'

Stephané Bothma

PRETORIA — Umkhonto we Sizwe (MK) special operations chief Aboobaker Ismail, who planned and approved the May 20 1983 Church Street bomb which left 19 dead and more than 200 injured, said he made no apology for the African National Congress's (ANC's) armed struggle, but regretted the deaths of innocent civilians.

Applying for amnesty for a host of attacks carried out by MK during the 1980s, including the Church Street bombing, an attack on the Sasol refineries and a rocket attack on Voortrekkerhoogte, Ismail said that in the course of war, life was lost and the

injury to and killing of innocent civilians became inevitable.

"I am proud of the bravery, discipline and selfless sacrifices of the cadres of special operations who operated under my command."

Ismail is one of several former MK members whose amnesty applications are scheduled to be heard this session. The acts for which they are applying for amnesty left 20 people dead and more than 350 injured.

Hein Grosskopf, who has applied for amnesty but failed to appear yesterday, had his application removed from the roll of the present hearings. Grosskopf said in a letter to the commission that he would not be attending

the hearings but was willing to answer any questions about the bomb attack on Wits Command in Johannesburg in July 1987. However, as the attack for which he is applying for amnesty involved a gross human rights violation, he must appear before the committee to qualify for amnesty.

Ismail, who was appointed to the rank of major general in the SA National Defence Force in 1994 but who is now with the defence secretariat, said he and former SA Communist Party leader Joe Slovo had approved the SA Air Force headquarters in Church Street as a legitimate target and

Continued on Page 2

Ismail

Continued from Page 1

agreed that an operation at the right time of day would strike overwhelmingly at military personnel outside a military target. Ismail had tested the detonating device himself.

He said a stolen car had been packed with explosives and delivered to a pre-arranged parking area by MK cadre Helene Pastoors. On May 20, the vehicle had been driven by Freddie Shongwe and Ezekiel Maseko who had planned to detonate the bomb at about 4pm, when it was expected that a large number of military personnel would be queuing at a bus stop outside airforce headquarters. "But the bomb detonated a bit prematurely. It is thought that the charge was triggered as the operative switched the mechanism on," Ismail said. Both cadres were killed.

Although he could not remember all the attacks, Ismail said he took full responsibility for a large number of attacks, including those on Sasol I and II on May 31 and June 1 1980 in which one security guard was injured, attacks on power stations at Camden and Arnot and a rocket attack on Voortrekkerhoogte on August 12 1981 in which a black woman was injured.

There were also a number of attacks on power stations, fuel depots and railway stations, a bomb at the Johannesburg Magistrates Court on December 31 1982, an attack on the Koeberg nuclear power station in the Cape, explosions at a number of government buildings, and an explosion at Anglo American headquarters in Johannesburg.

□ The foreign affairs department said the application for amnesty relating to seven bomb attacks in the 1980s was lodged by Mohammed Iqbal Shaik, not by Rieaz (Mo) Shaik, the SA consul-general in Hamburg, as reported

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Prosecutors in dire straits and crisis looming, attorneys-general warn

Wynham Hartley

CAPE TOWN — Attorneys-general in four provinces have said their prosecutors are in dire straits with increased working hours, low pay, poor promotion prospects and a workload complicated by huge burdens placed on the courts by the new bail system.

Attorneys-general from the Witwatersrand local division, Cape Town, Port Elizabeth and the Free State all complained of resignations by prosecutors and an inability to fill the vacant posts at current salaries and conditions of service.

The toughest report came from Witwatersrand local division attorney-general Andre de Vries who said last year's protest by prosecutors was "justified" because promises had not been kept by the justice department. A full load of work had been done by his office with 58% of the staff complement.

"To exacerbate the situation there has been no reward for loyalty and for meritorious work, neither in salary nor in promotion," De Vries reported to Parliament. He also said that with affirmative action policies in place, "if none of the correct population or gender group is found suitable the post is left vacant and persons of merit of any other group are overlooked."

"The drain on the prosecution is severe and under the strain large cracks are opening: we are in danger of becoming a haven for the unemployed and the unemployable, and this calls for drastic and speedy re-evaluations of the whole situation."

The central bank is operated by candlelight

Hope division Frank Kahn said the loss of prosecutors was about 20% and morale of those remaining was low.

Free State attorney-general MT van der Merwe said "The lack of career prospects, problems regarding overtime pay and poor salaries result in every experienced prosecutor looking for other employment."

Eastern Cape attorney-general Les Roberts, while reporting a more stable staff picture than his counterparts, complained that the ratio of prosecutors to courts was inadequate for the thousands of cases they were required to deal with each year.

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(252.) 80 5/5/98

Barnard's defence team closes case

Stephané Bothma

BD 5/5/98 (252)

PRETORIA—The legal team defending alleged Civil Co-operation Bureau (CCB) assassin Firdi Barnard closed its case in the high court yesterday without calling any defence witnesses.

Barnard is facing 34 criminal charges, but denied involvement in any of the crimes including the 1989 murder of Wits university lecturer David Webster.

Other charges against him include the attempted murder of Justice Minister Dullah Omar, theft and fraud.

Defence advocate Faan Coetzee told Judge Johan Els that it was difficult to persuade anybody to testify for Barnard.

Unlike the attorney-general, we cannot offer our witnesses indemnity from prosecution in terms of section 204 of the Criminal Procedure Act," Coetzee told the court.

The trial, which started in February this year, heard from more than 10 state witnesses that Barnard had confessed to the assassination of Webster. Some witnesses said Barnard had described in detail how he had shot Webster with a sawn-off shotgun from a moving car.

Barnard allegedly also told friends that another former CCB operative, Calla Botha, had driven the vehicles from which Webster was shot.

Botha was not called to testify in the trial. The prosecution will start its closing argument on May 14.





THE STAR

Reconciliation: Neville Clarence, right, greets Umkhonto weSizwe bomber Aboobaker Ismail

Victim and bomber come face-to-face

ARGUS CORRESPONDENT

Pretoria - Former air force officer Neville Clarence, blinded 15 years ago by the Church Street bomb in Pretoria, has embraced the man who planned the attack and says he has forgiven him.

This emerged at a Truth and Reconciliation Commission amnesty hearing yesterday for Aboobaker Ismail, former head of the special operations unit of the African National Congress military wing, Umkhonto weSizwe

Mr Ismail, 43, admitted authorising the 1983 Church Street bombing, which was aimed at the South African Air Force headquarters, although he knew there would be civilian casualties

He said then ANC president Oliver Tambo and MK chief of staff Joe Slovo were also aware of the risk of civilian casualties, but approved the attack, which came in the wake of a South African Defence Force raid on ANC facilities in Lesotho in which 42 people, including civilians, were killed

Nineteen people were killed in the explosion, including the two cadres who placed the bomb, and more than 200 were injured. Of the dead, 11 were air force personnel.

Mr Ismail, now head of policy and planning in the defence secretariat, told the amnesty committee he regretted the deaths of civilians in the course of the armed struggle

But civilian injuries and loss of life in the course of a war was inevitable, he said, adding. "The ANC has never been callous in its struggle. We never set out deliberately to attack civilian targets"

Before the hearing began, an emotional Mr Ismail came face-to-face with Mr Clarence, and apologised for the hurt he had caused

"This is very difficult. I am sorry about what happened to you", he said

Mr Clarence, who testified at a TRC hearing two years ago, and said then that he had forgiven the ANC, told Mr Ismail: "I do not hold any grudges"

Afterwards, Mr Clarence told reporters. "I came here today partially out of curiosity and hoping to meet Mr Ismail. I wanted to express the feeling that I have never held any grudges or bitterness towards him. It was a wonderful experience

"Reconciliation does not just come from one side, it comes from both sides. I was on the one side and he was on the other. In this instance though, I came off second best."

Mr Clarence, who now owns a computer company specialising in equipment for blind people, has been fighting a 15-year battle for compensation under the Workmen's Compensation Act

He told the TRC in 1996 that the SAAF had refused to pay compensation because he was technically off-duty when the bomb exploded shortly after 4pm on May 20 1983

Shell House amnesty bids

The TRC will on May 11 hear applications from 13 African National Congress security operatives seeking amnesty for eight deaths during the so-called Shell House shootings in central Johannesburg on March 28, 1994, the commission announced

Among the applicants is former Umkhonto weSizwe member Gary Kruser, who is now head of the police VIP protection service.

He was in charge of security at Shell

House at the time of the shootings

An inquest for the victims held in the Johannesburg High Court last year found there was no evidence Shell House was about to be attacked by Inkatha marchers and no justifiable reason why they were shot.

The applicants have applied for amnesty in relation to the Shell House and Lancet Hall shootings. The hearing will be held in Johannesburg. - Argus Correspondent

MK bomb chief defends blasts

AR 5/16/98 (A5A)

Civilian deaths 'almost inevitable', says Ismail

Pretoria - Oliver Tambo, then African National Congress president, and Umkonto we Sizwe knew civilian casualties would be "all but inevitable" in operations such as the Pretoria car-bomb attack, the Truth Commission has heard.

But it was ANC policy that military targets - including military personnel - were justifiable, even if they entailed limited loss of civilian life, the commission was told.

This was confirmed yesterday by Aboubaker Ismail, also known by his MK code-name Rashid, at his amnesty application for 13 incidents between 1980 and 1988 in which at least 25 people died and more than 350 were injured.

One of these was the attack on Air Force headquarters in Church Street in May 1983, in which 21 people were killed.

Mr Ismail, who was an instructor before rising through the ranks of MK to become overall commander of its special operations group and chief of ordnance at MK head-

THE TRUTH COMMISSION



ON THE TRUTH COMMISSION

quarters, told the commission the Church Street attack was planned in the wake of a raid by the SA Defence Force into Lesotho in which 42 ANC supporters and Lesotho citizens were killed.

Also, it had followed the assassination in Maputo of Ruth First, ANC activist and wife of MK chief of staff Joe Slovo, by agents of the apartheid government.

Mr Ismail said the government led by P W Botha had justified the deaths of the Lesotho civilians because the ANC had set up "bases" among the civilian population. Mr Tambo had responded by

suggesting the ANC was therefore justified in carrying out operations against the apartheid military's headquarters and bases in built-up areas, such as central Pretoria.

Mr Ismail said he had trained the soldiers involved in the attack and tested, several times, the device used to trigger the car bomb in Lusaka while planning the operation.

"Comrade Joe Slovo and I discussed the possible loss of civilian life and whether this would be justified. After careful consideration it was felt that special operations should proceed.

"It was emphasised that great care was to be taken to ensure that the target was overwhelmingly military." This was done by planning the attack for a time when large numbers of personnel who worked in the building would be waiting outside for a military bus.

"The operation was approved by president Oliver Tambo in terms of the mandate he was given by the ANC's national executive committee." Mr Ismail confirmed that the car

packed with explosives was driven across the border and delivered to a pre-arranged place by Belgian Helene Passfoors, who was later convicted of high treason.

Ms Passfoors knew the car contained explosives, although she did not know the target.

The bomb exploded earlier than intended, killing the two MK operatives who delivered it to the target.

Mr Ismail detailed other operations involving his special unit, including the rocket attack on the SADF's Voortrekkerhoogte headquarters in August 1981 and attacks on the Sasol 1 and 2 and Natref refineries in May and June 1980.

He also gave details of operations by the "Dolphin" unit, which operated independently but reported to him. This group attacked power sub-stations and government offices for more than eight years without being caught.

Mr Ismail, now chief of policy and planning in the Department of Defence - a civilian post - said "We took up arms to defeat apartheid and

to replace it with a free and democratic South Africa - we make no apology for this."

He regretted civilians had been killed in the cause of the fight for justice and freedom as he equally regretted the deaths of many MK operatives at the hands of the apartheid security forces and civilians killed in cross-border raids.

Mr Ismail said he wanted to make it clear he had instructed MK operative Robert McBride, now in a Maputo jail on gun-running allegations, to target the then Natal Command McBride had reported that a direct attack was not possible - and he had then instructed him to find a suitable alternative. This had led to the car-bomb at Magoo's Bar in Durban, in which three died.

■ The hearing has been adjourned to tomorrow at the request of Louis Vasser, who is appearing for victims of the MK blasts who oppose the granting of amnesty. He told the committee he needed time to consult with witnesses. He is to cross-examine Mr Ismail.

No recourse likely for blinded bomb victim

(257) Star 6/5/98

SA Air Force has not compensated former employee, afflicted by blast at its headquarters, on technical grounds

By **RAPHAEL BANDA**

Former SA Air Force officer Neville Clarence, who embraced the former MK commander behind the Pretoria bomb attack that blinded him 15 years ago, may never win his 15-year-old battle for compensation

Clarence (37) told The Star yesterday that a defence force official had informed him about three years ago that records of his case had allegedly been destroyed by the former State Security Council.

He was considering taking the matter to the High Court, but was aware the case could be too costly for him.

"I don't have the capacity to take the case to the High Court. This is why I requested the assistance of the president (Nelson Mandela)," he said

Three years ago he wrote a letter to the president, putting his case before him and asking him to intervene with the workmen's compensation division. Although the president was sympathetic, Clarence was later informed by the Department of Defence that Mandela had no power to intervene

Clarence said the former apartheid government had ignored him and "the only positive response has been since the new government came to power"

"The biggest problem is that the Department of Defence claims the records have been destroyed," he said. Although he said the incident is publicly acknowledged, "there won't be enough evidence to take to court"

Clarence said his application for compensation had ini-

tially been approved by the personnel division at SA Air Force headquarters. But later the grant was "repudiated".

"It has been crazy," he said bitterly "I was technically off-duty when the explosion occurred"

The bomb went off at the entrance to SA Air Force headquarters at about 4 30pm and Clarence was sitting in a vehicle with two other air force members.

The blast left him blinded at the age of 22, but it did not dissuade his sweetheart, Vivienne, from marrying him 18 months later.

The bomb in Church Street killed 19 people, including the two cadres who planted the device, and wounded 120 others. Of the dead, 11 were air force personnel. The bomb was a response to an SADF raid on ANC facilities in Lesotho

Church Street bomber to face cross-examination before TRC

Staff Reporter

The former head of Umkhonto weSizwe's special operations unit, who has applied for amnesty for several bomb attacks during the apartheid era, is to be questioned today.

The Truth and Reconciliation Commission hearing resumes today with the cross-examination of Aboobaker Ismail, who has applied for amnesty for 13 incidents, including the 1983 Church Street bomb in Pretoria, which claimed 19 lives

The hearing was adjourned yesterday to allow lawyers time to prepare for cross-examination.

Nine former members of MK, the ANC-in-exile's armed wing, are applying for amnesty over bomb attacks during the 1980s. The wave of bombings resulted in 23 deaths and more

Victims' counsel needs time

than 350 injuries.

The adjournment was granted yesterday before any further evidence was heard, at the request of Louis Visser SC, who is appearing for some of the vic-

tims of the Church Street blast and other bombings

Visser told the TRC's amnesty committee he needed time to study Ismail's evidence, and documents submitted in support of his amnesty application, before proceeding with the hearing

Ismail has admitted that he planned the bombing campaign

He said the Church Street bomb had been aimed at a military target - the South African Air Force headquarters - but that the planners of the attack were aware of the risk of their action resulting in civilian casualties.

Prisoners will 'appear' while in their cells

Star 6/5/98 (252)

BY CLIVE SAWYER
Independent Parliamentary Bureau

Video-conferencing facilities are to be used to allow magistrates to deal with arraignments and first hearings of prisoners without moving them out of police stations or jails.

This is among the innovative steps outlined by Justice Minister Dullah Omar in his budget speech in the National Council of Provinces yesterday.

He said the costs of the video-conferencing project would probably be shared by the departments of justice and correctional services and by the SA Police Service.

A pilot project is to be carried out between the Johannesburg Magistrates' Court and Diepkloof prison.

Not having to move awaiting-trial prisoners would lessen congestion in courts and the possibility of escapes

Omar said the video-conferencing facilities could also be used for management meetings and training, saving transport and accommodation costs. Changes were being made to the court system, which would result in improved management.

Modern information technology resources were being installed in all 13 attorneys-general offices. Jutastat, a system of recording court decisions on compact disc, would be used to speed access to records and to make preparation for cases and decisions more efficient.

There was no evidence showing a fall in the rate of convictions, Omar added. The conviction rate since 1994 had been about 74%, and there was no reason to believe the 1997/98 statistics would show a drop.

► More reports

ART 6/5/98
**Air Force
civvy staff
'legitimate
targets'**

(M)

JOHN YELD
ON THE TRUTH COMMISSION

Pretoria - Typists, telephonists and other administrative staff working for the apartheid-era SA Defence Force were regarded as part of the "apartheid military machine"

This meant they were legitimate targets, former senior Umkhonto we-Sizwe officer Aboobaker Ismail told the Truth Commission today

He also confirmed that MK had "struck at the soft underbelly" of the SADF as it had not had the capacity to engage in conventional war against the apartheid state and had tried to kill as many SADF personnel as possible - "absolutely certainly," he said

Mr Ismail, who is applying for amnesty for incidents in which he and cadres under his command were involved between 1978 and 1994, was being cross-examined by Louis Visser, SC, for the victims of some of the attacks

They include

■ The car-bomb outside SA Air Force headquarters in Church Street, central Pretoria, in May 1983, in which 21 people died and more than 200 were injured

■ The limpet mine attack on the offices of the Soweto East security police in Roodepoort in 1984, which injured five police and two civilians

■ The car-bomb attack on the Krugersdorp Magistrate's Court in 1988 in which three people died and 20 were injured

Mr Ismail was commander of MK special operations and chief of ordnance at headquarters.

He confirmed he had been told there were shops on the ground floor of the building, but said it had been an "overwhelmingly" military target

"An air force headquarters carries senior military personnel. Those people there were all part of the military machine"

Mr Visser said victims, some of whom were typists and telephonists, found it "very hard" to understand how they could have been seen as part of the military machine

Mr Ismail "No military machine will work without all these administrative people. They are legitimate targets"

UDF 'helpless to stop deaths by necklacing'

*ARG 6/5/98
(252)*
State clamp blamed

The United Democratic Front disapproved of necklacing and condemned its use on several occasions, former UDF leader Azhar Cachalia told the Truth and Reconciliation Commission today.

Giving evidence to the TRC's human rights violations committee as part of a delegation of former prominent UDF leaders, Mr Cachalia, now head of the SA Police Service's civilian secretariat, said this condemnation was communicated through the media and a discussion among UDF affiliates.

The UDF, however, had little direct control over the development of the necklacing phenomenon, in which victims had a tyre filled with petrol placed around their shoulders and set alight.

The UDF's capacity and ability to intervene was limited due to the negative impact of the state of emergency in the mid-1980s on the organisation, Mr Cachalia said.

Reading the UDF's main submission into the record, North-West premier Popo Molefe said state acts of brutality, and systematic detention and banning of the UDF and other leaders created the space for uncontrolled acts of violence by angry mobs.

The restrictions imposed on the UDF in terms of the state of emergency confined the activities of the organisation to office administration and placed most of its leadership in detention.

"This severely hampered the ability of the UDF to moderate, prevent or curtail the activities of angry activists and supporters of boycotts and work stoppages. It is in this context that various gross violations of human rights were committed against suspected opponents of the mass protest action and supporters of the state," he said.

African National Congress national chairman Patrick Lekota, also chairman of the National Council of Provinces, said he wished to pay tribute to patrons the UDF had been able to approach at critical times.

These included Allan Boesak, Beyers Naude, Archbishop Desmond Tutu and Helen Joseph (since deceased).

Mr Lekota said the UDF was founded in the hope that the apartheid government would listen to moderate voices in the country, in view especially of the fact that other organisations had been driven to arms. "We did our best to act responsibly as citizens."

In the latter part of its life, the UDF agreed on campaigns with the banned African National Congress, while maintaining distinct structures and accountability.

The UDF was launched in 1983 with the support of about 600 organisations.

Mr Cachalia told the hearing the UDF deeply regretted any injury or loss of life that had resulted from its quest for justice. - Sapa

Conviction rate is not down — Omar

BO 6/5/98 (252)

Wyndham Hartley

CAPE TOWN — Statistics on convictions in SA's courts did not support the perception that the conviction rate was worsening, Justice Minister Dullah Omar said yesterday.

Omar said in his policy review debate in the National Council of Provinces that media reports had created the perception the rate of conviction was down on previous years. He said the conviction rate had not changed significantly and, while he did not have final figures for last year, he did not expect them to differ substantially from the two previous years.

In 1994/95 there were 260 887 convictions from 350 201 prosecutions, a rate of 74,49%, and in 1995/96 the rate was 74,83% on a slightly lower total number of both cases and convictions.

"From the initiatives and projects I have mentioned it is clearly evident the department is making every effort to ensure that justice is done in all cases coming before court," Omar said.

He told the council a "fast-track" project to prepare 100 candidate prosecutors for service in the justice department, launched in June last year, was a success and when the 100 candidates were permanently appointed they were "expected to help in raising the quality of prosecutions in SA".

On the issue of vacancies in the department, he said many posts which had been vacant for a long time had been filled but "constant resignations mean that there are always vacancies to be filled". The treasury's approval of additional posts over the next three years would help the situation. More than 300 critical posts had already been advertised and were in the process of being filled.

Omar said the National Prosecuting Authority Bill, which was before Parliament now, would also make a difference. He expected amendments in the bill to provide for the delinking of prosecutors from the public service and the fixing of their salaries.

The bill would streamline prosecutions, allowing for effective and efficient choice of priorities such as drug-trafficking, money-laundering, crimes against women and children, and gang-related crimes. It would ensure the national prosecuting authority was free of interference from the executive and other sectors and would act subject only to the constitution and the law.

Omar also said SA's jails were brimming over with prisoners. He said prisons built to hold 99 000 inmates now housed more than 143 000. About 30% were still awaiting sentencing and nearly half had been granted bail but were too poor to pay.

Video-conferencing in courts a boost to justice

CAPE TOWN — The justice department was looking at a system of video-conferencing to make justice more accessible to all, Justice Minister Dullah Omar said yesterday.

During debate on his budget vote, Omar said the system would be a joint venture between his department, the department of correctional services and the police services.

A pilot video-conferencing system would be set up between the Johannesburg Magistrate's Court and Diepkloof prison. This would run for three months and if it proved feasible would be extended to other major centres.

Installing the system in courts, police stations and prisons would allow magistrates' offices to carry out arraignments and first hearings without having to move awaiting-trial prisoners. It would reduce congestion in the courts and prevent prisoners escaping. However, new legislation might be necessary in respect of court hearings.

National management meetings could be held between two or more centres without the need for a person to leave the office. Officials would spend less time away from the office, which would increase productivity and make the justice system more effective.

Training could be conducted from the national head office and seen at other centres around the country where the system was installed, again cutting out travel and accommodation expenses.

A feasibility study was being conducted into automating the financial administration of trust monies handled by the courts, Omar said.

Automation would allow people to collect or pay their maintenance, bail and fines at any bank, ATM, court, or post office, as well as at many retail institutions. It would ensure greater public access and save money.

"I hope that through this innovation the terrible inconvenience and suffering, especially of our women, will come to an end," Omar said.

The department was discussing the plan with various financial institutions. However, a number of practical problems still had to be sorted out and the system could not be implemented immediately, he said.

Throughout the country the court handled about R95m a month. Replacing the system would enable the department to refocus on its core function — the administration of justice. — Sapa

ANC amnesty hearings held up

100 6/5/98 (252)

Stephané Bothma

PRETORIA — The first major probe into gross human rights violations committed by the African National Congress (ANC) during the anti-apartheid struggle was temporarily halted yesterday when more victims came forward to oppose the granting of amnesty to Umkhonto we Sizwe (MK) cadres involved in the armed struggle in the 1980s

Advocate Lous Visser, representing victims of the 1983 Church Street bomb, a car bomb at the Krugersdorp Magistrate's Court and adjacent police station in 1988 and a 1984 explosion in Soweto, was granted a postponement yesterday of the truth commission's amnesty committee hearings into MK's special operations unit to allow time for consultations with five victims

Visser said on Monday the

amnesty applications by MK's special operations chief, Aboobaker Ismail, and seven operatives were being opposed by his clients on the grounds that "on the face of the written applications submitted, there is serious doubt of a political motive or that full disclosure had been made"

Two further victims, Rene van Wyk and Isaak Moroke, contacted the commission yesterday after media reports on the first day of the hearings, at which Ismail spelt out details of the MK bombing campaign which left 20 people dead and more than 350 injured

"We find ourselves in a position that we cannot sensibly cross-examine the amnesty applicants," Visser said when asking for the postponement. The application was not opposed by the amnesty applicants' legal teams

Ismail, who still has to be cross-examined by Visser and the

amnesty committee, said on Monday the 13 acts for which he sought amnesty were attacks that were carried out as part of the ANC's strategy to demoralise the apartheid government economically and militarily

"This type of armed propaganda was aimed at showing the oppressed that the enemy was not invincible and that the ANC had the ability to strike at the heart of the apartheid war machine," Ismail, now head of policy planning in the defence secretariat, told the committee.

Ismail also admitted that his instructions led to the bomb blast at Magoo's Bar in Durban.

The bomb, which killed three women, was planted by Robert McBride, who is now a foreign affairs official.

The hearings will resume this morning under the chairmanship of Judge Selwyn Miller

'UDF rejected necklacing but was unable to stop it'

2577 Now 7/5/98

Cape Town - The United Democratic Front disapproved of necklacing and condemned its use on several occasions, former UDF leader Azhar Cachalia told the Truth and Reconciliation Commission yesterday.

Giving evidence to the TRC's human rights violations committee as part of a delegation of former prominent UDF leaders, Cachalia, now head of the SA Police Service's civilian secretariat, said this was communicated through the media and a discussion among UDF affiliates.

The UDF, however, had very little direct control over the development of the necklacing phenomenon.

The UDF's capacity and ability to intervene was limited because of the negative impact of the mid-1980s state of emergency on the organisation, Cachalia said.

"The UDF constantly made public statements distancing itself from such conduct."

Reading the UDF's main submission into the record, North West Premier Popo Molefe said government acts of brutality, and systematic detention and banning of UDF and other leaders, had created the space for uncontrolled acts of violence by angry mobs.

The restrictions imposed on the UDF in terms of the state of emergency had confined the activities of the organisation to office

administration, and placed most of its leadership in detention.

"This severely hampered the ability of the UDF to moderate, prevent or curtail the activities of angry activists ..."

"It is in this context that various gross violations of human rights were committed against suspected opponents of the mass-protest action and supporters of the state," Molefe said.

ANC national chairman Patrick Lekota, also chairman of the National Council of Provinces, said he wished to pay tribute to the patrons whom the UDF were able to approach at critical times. These included Dr Beyers Naudé, Dr Allan Boesak, Archbishop Desmond Tutu and the late Helen Joseph.

Lekota said the UDF was founded in the hope the government would listen to moderate voices - in view especially of the fact that other organisations had been driven to taking up arms.

In its submission, the UDF said it was known that the ANC was a prominent but banned ally. In the latter part of its existence, the UDF had consulted and agreed on campaigns with the banned ANC, while maintaining distinct organisational structures and accountability.

Cachalia said the UDF deeply regretted any loss of life or injury that resulted from its quest for justice. - Sapa

ANC bomber tells of solitary campaign against apartheid

By Robert Brand

One of Umkhonto we Sizwe's operatives, yesterday began telling the Truth and Reconciliation Commission's amnesty committee about his campaign. Mohammed Iqbal Shaik joined MK in 1982, and carried out 31 bombings over a period of six years.

Shaik (39), who is applying for amnesty for six incidents in which people were injured or killed, was the commander of the Dolphin Unit, which functioned under the overall command of MK special-operations commander Aboobaker Ismail.

The other member of Dolphin was Ismail's brother Mohammed, who ended his participation in 1985.

The unit targeted military and police facilities and government infrastructure, avoiding civilian targets, Shaik told the TRC. Only one of the attacks, the bombing of the Kruger's Hotel, Magistrate's Court on March 16 1988 - resulted in the death of a civilian. The Krugersdorp blast, Shaik noted in his written

amnesty application, was an operation gone wrong: a decoy charge placed in a restroom with the intention that it would explode first, clearing the area of civilians and jutting large numbers of police into the building, failed to go off.

Instead, the main charge, placed in a car outside the court, exploded first, killing two policemen and a civilian. Shaik was also responsible for limpet-mine explosions at the Ciskei Consulate in the Carlton Centre, Johannesburg, in 1983, the Roodepoort Police

District Commissioner's offices in 1984; a Railway Police radio room in Johannesburg in 1984; the Department of Foreign Affairs offices in Market Street, Johannesburg, in 1984; and the Transvaal Medical Command in Hillbrow in 1985.

In all, 37 people were injured in these attacks, at least four of them civilians.

Shaik continues his testimony today.

Earlier yesterday Ismail, who planned and directed MK's bombing campaign during the 1980s, defended his decision to

bomb the Air Force headquarters in Church Street, Pretoria.

He said although he regretted civilian deaths, the ANC's policy was that they should not be deterred from striking at the apartheid state "for the sake of a few civilian lives".

Ismail was being cross-examined by Louis Visser, SC, who is appearing for victims of the bombing campaign, who said the people he represented found it difficult to accept that administrative people such as telephonists were seen as a military target.

First 700 TRC reparation notices go out

(257) 7/15/98
Cape Town – The first 700 people officially declared victims of gross human rights violations were yesterday sent notices by the Truth and Reconciliation Commission informing them they were eligible to apply for reparation.

Addressing a media conference in Cape Town, TRC chairman Archbishop Desmond Tutu said “For us it is a tremendous, historic day, it is almost like we are beginning our work”

The commission had spent two years collecting statements, hearing public testimonies and individually corroborating each of the more than 20 000 statements received

It was planned to send out more than 2 000 official find-

ings and reparation applications forms each week, Tutu said in a statement

Applications for reparation would be considered by the TRC’s reparations and rehabilitation committee

If a victim had suffered hardship and was in particular need, the committee would forward the applications to the President’s Fund, a body set up to make reparation payments

Interim reparations were once-off payments – normally a maximum of R2 000 – for those victims or their dependants who had suffered hardship and were in need

A TRC staff member said the amount could be increased on a sliding scale if the conditions of the victims and their

dependants warranted it

Tutu said in his statement that notices would also be sent out soon to people who were found, in a minority of cases, not to have been victims of gross violations of human rights

These people would be able to appeal against the decision

“We appeal to those who made statements to the TRC to be patient with us for a little longer, while they wait for findings to arrive,” Tutu said

Those with inquiries could call (011) 333-6330; (021) 24-5161; (031) 307-6767, or (0431) 43-2885 – Sapa

► UDF rejected necklacing

Uzwe wanted whites to suffer like blacks

By Claire Keeton 7/5/88

By Claire Keeton

THE Church Street bomb was clearly aimed at a military target and not at civilians — but at the same time it was intended to force whites out of their comfort zone and to keep them from enjoying the fruits of apartheid.

This was said by former Umkhonto we Sizwe (MK) commander Mr Aboobaker Ismail to the Truth and Reconciliation Commission in Pretoria yesterday.

He added that they “wanted whites to have an understanding of the pain and suffering felt by black people”. Ismail is the first of 10 amnesty applicants to testify before the TRC

about the African National Congress’ bombing campaign in Gauteng and the Free State between 1980 and 1988.

The lawyer for two victims of the 1983 Church Street blast, Advocate Louis Visser, concentrated on the distinction between hard and soft targets in his cross-examination of Ismail.

The blast, targeted at the South African Air Force headquarters, left 19 people dead, 11 of whom were military personnel. The blast injured 217 people. The explosion was one of the few masterminded by Ismail, as head of MK’s special operations, which injured civilians.

Ismail said that all defence force personnel at the headquarters, whether typists or telephonists, were part of the

“apartheid military machine” which was a hard military target.

“No military machine will work without all its administrative personnel. They are part of the whole and the whole was targeted. They were legitimate targets.”

“We wanted to show that it was not only MK soldiers who bled. The only way was to rip the apartheid war machine open, to deal with its soft underbelly.”

Ismail said that MK aimed its bombs at military targets but accepted that loss of civilian life may be necessary in the struggle to weaken apartheid.

“We could not for the sake of saving a few lives be prevented from striking

at apartheid,” he said, quoting former ANC president Mr Oliver Tambo.

Ismail said the South African security forces had killed hundreds of innocent civilians, including schoolchildren. But in the ‘80s, he said, South African authorities implicitly accepted that when “you shoot an African you are not killing a civilian”.

Ismail said that civilian lives were inevitably lost in any conflict and war, and that MK was fighting for a just cause — unlike the apartheid security forces.

He said that the Allied forces in World War 2, who bombed innocent civilians in their struggle against Nazi genocide, were hailed as liberators and not put on trial.

“They were considered to be liberators from the Nazi beast,” Ismail said. “We had to destroy those security forces who defended apartheid.”

Visser has a long history of defending the very security forces Ismail has identified as the enemy in his amnesty application, leading to several clashes between the two during cross-examination.

“Given the circumstances, the Church Street bomb could only be disproportionate,” Visser said, questioning whether Ismail was in fact acting with a political objective.

“We were pursuing a political objective, to draw the masses into a political uprising against the apartheid state,” Ismail responded.

Law advisers now more representative

ET 7/5/98
VUYO MNTUYEDWA

THE State Law Advisers' Division is on its way to making itself more representative and accountable — 14 of its advisers are now black and 18 are women

This emerged yesterday in a report before the parliamentary portfolio committee on justice by chief state law adviser Mr Enver Daniels

The division, which has a budget of R12 million, drafts, scrutinises and certifies legislation and subordinate legislation (regulations and notices), scrutinises international agreements and provides the government, state departments, parastatals and organs of state with legal advice

Daniels said law advisers had to ensure that a very high standard of work was maintained at all times and that special criteria for the appointment of law advisers might have to be considered

South Africa's re-admission to the international community had made the work of the division more complicated

Daniels said regular reports were sent to the Speaker of the National Assembly and the chairperson of the National Council of Provinces at least once a month

The reports enable ministers to monitor progress made with bills they hope to introduce in Parliament

Provinces, such as the Free State, and the Northern Province, had taken up the offer of assistance from state law advisers, and municipalities would be assisted under defined circumstances, he said

"We have held discussions with the National Association of Democratic Lawyers and the Black Lawyers Association about training for their members

"A programme has been prepared which is still to be discussed. Many black lawyers have historically been denied access to complex legal work. Most have not yet been able to gain such expertise

"We hope the training we provide will redress this imbalance to some extent," Daniels said



REPARATION COULD COST STATE R100M

Pay-out for apartheid victims

VICTIMS of gross human rights violations, whose statements to the Truth and Reconciliation Commission laid bare the evil that flourished under apartheid, are to be compensated. Special Assignments Team **ROGER FRIEDMAN** and **BENNY GOOL** report.

CT 3/5/98

(267)

THE first batch of 700 verified victims of the anti-apartheid struggle will today and tomorrow be receiving letters from the Truth and Reconciliation Commission informing them they are eligible to apply for compensation and enclosing application forms.

Depending on their individual circumstances — which will be determined from their answers to questions on the application form — they could qualify for urgent interim payouts of up to R2 000.

"I'm thrilled," commission chairperson Archbishop Desmond Tutu told the *Cape Times* yesterday, as he whizzed around the commission offices.

"I am very excited. It really is a tremendous day. It is almost as if we

only limited assistance while the government and Parliament are discussing their final decision on reparations, which is likely to be taken only after the TRC has handed in its final report (which is due to be presented to President Nelson Mandela by the end of July)."

Commission staff yesterday dispatched notices to the first 700 identified victims, most of whom will receive their letters through the post. The commission is using the Post Office's special "securemail" service to minimise the possibility of letters going astray. In cases where the TRC does not have the addresses of victims, fieldworkers and non-government organisations will be asked to locate them.

The commission has spent the last two years collecting statements, hearing public testimony from a cross-section of those who gave statements, and individually corroborating each of the more than 20 000 statements received.

Tutu said yesterday that official findings declaring that people had suffered a gross human rights violation were ready to be sent to more than 2 000 people "within days".

Less than 10% of those who made statements had, by yesterday, been found not to qualify as a victim in terms of the definition provided in the commission's founding legislation. Such people would be able to appeal against the decision.

Over the next two months, the commission aimed to complete the process of making findings on each individual statement, and expected to send out more than 2 000 official findings and reparation forms each week.

Tutu paid special tribute to the commission staff who have had their work cut out corroborating statements. They were, he said, "the best possible staff in the world".



RELATED Truth and Reconciliation Commission chairperson Archbishop Desmond Tutu, photographed yesterday with commission official Crystal Mateman and thousands of reparation application forms, said he was "thrilled" that the reparations process was at last under way.



ANC 'not halted' by civilian deaths

ET 7/15/98 (257)

PRETORIA: The mastermind behind the ANC's 1980s bombing campaign told the Truth and Reconciliation Commission here yesterday the loss of a few civilian lives did not deter his organisation from striking at the apartheid state.

The former head of uMkhonto weSizwe's special operations unit, Mr Aboobaker Ismail, 43, told a TRC amnesty committee hearing he knew the 1983 Church Street bomb would endanger civilian lives, but decided to go ahead with the attack in the interests of the liberation struggle.

Ismail is one of 10 former MK members applying for amnesty for a series of attacks, including bomb blasts in Church Street in Pretoria, at the Krugersdorp Magistrate's Court and at Wits Command in Johannesburg.

The Church Street blast on May 20, 1983, killed 19 people, including 11 SA Air Force officers.

Ismail said the Church Street bomb was aimed at military staff leaving SA Air Force headquarters. He chose the building aware of the fact that targeting an urban building for a bomb blast posed a threat to civilians.

"We did not target civilians. However, the policy of the ANC at the time was that we could not for the sake of saving a few lives be prevented from striking at the power of state, the apartheid state," Ismail said.

He also quoted ex-ANC president Oliver Tambo as justifying the attacks, even though civilians were often killed.

Ismail was being cross-examined by Mr Louis Visser, SC, who is appearing for some victims of the bombing campaign. Visser had asked Ismail to explain the political motive for the bomb attacks.

Ismail said the struggle between the ANC and the apartheid state could not be equated with a war between two countries. "There would have been no struggle if there had been no apartheid state. It was the cause of suffering and bitterness in this country and the oppression of the people."

Visser said the people he represented found it difficult to accept that as administrative people, such as clerks and typists, they were seen as military targets.

Ismail replied that even though they were administrative people, they contributed to the operation of the military machine and had to be seen as part of the whole structure and not as individuals.

The hearing continues at the Democracy Centre in Pretoria — Sapa

UDF condemned use of necklacing, TRC hears

ET 7/15/98 (257)

THE United Democratic Front disapproved of necklacing and condemned it on several occasions, former UDF leader Mr Azhar Cachalia told the Truth and Reconciliation Commission in the city yesterday.

Giving evidence to the TRC's human rights violations committee as part of a delegation of former prominent UDF leaders, Cachalia, now head of the SA Police Service's civilian secretariat, said this was communicated through the media and a discussion among UDF affiliates.

The UDF, however, had very little direct control over the development of the necklacing phenomena. The victims of necklacing killings had a tyre placed around their shoulders before being set alight.

The UDF's capacity and ability to intervene was limited due to the negative impact of the state of emergency in the mid-1980s on the organisation, Cachalia said.

"The UDF constantly made public statements distancing itself from such conduct."

Reading the UDF's main submission into the record, North-West Premier Popo Molefe said state acts of brutality and systematic detention and banning of the UDF and other leaders created the space for uncontrolled acts of violence by angry mobs of especially youths.



PAYING TRIBUTE: Patrick Lekota, who appeared before the TRC.

The restrictions imposed on the UDF in terms of the state of emergency confined the activities of the organisation to office administration and placed most of its leadership in detention.

"This severely hampered the ability of the UDF to moderate, prevent or curtail the activities of angry activists and supporters of boycotts and work stoppages.

"It is in this context that various

gross violations of human rights were committed against suspected opponents of the mass protest action and supporters of the state," Molefe said.

African National Congress national chairman Mr Patrick Lekota, also chairman of the National Council of Provinces, said he wished to pay tribute to patrons the UDF could approach at critical times.

These included Dr Allan Boesak, Dr Beyers Naudé, Archbishop Desmond Tutu and the late Mrs Helen Joseph.

Lekota said the UDF was founded in the hope that the government would listen to moderate voices in the country, in view especially of the fact that other organisations had been driven to arms. "We did our best to act responsibly as citizens."

In its submission, the UDF said it was known that the ANC was a prominent but banned ally.

In the latter part of its life, the UDF consulted and agreed on campaigns with the banned ANC, while maintaining distinct organisational structures and accountability.

The UDF was launched in 1983 with the support of some 600 organisations.

Cachalia said the UDF deeply regretted any loss of life or injury that resulted from its quest for justice. — Sapa

UDF denies condoning human rights atrocities

JERMANE GRAY
STAFF REPORTER
(9572) AKG 7/15/98

The United Democratic Front has denied silently condoning gross human rights atrocities such as necklacing, saying it vehemently disapproved of it and condemned its use many times.

But giving evidence to the Truth and Reconciliation Commission's human rights violations committee yesterday, former UDF leader Azhar Cachalia said this did not mean people who committed this "gruesome" act should be disqualified from being granted amnesty.

Mr Cachalia was part of a delegation of former prominent UDF leaders, including Terror Lekota, Popo Molefe, Vally Mosea, Murphy Morobe and Albertina Sisulu, who made a submission to the commission about the rise and activities of the organisation during the apartheid years.

A notable absentee from the delegation was former UDF patron Allan Boesak who played a major role in the organisation in the 1980s.

In a letter to commission chairman Desmond Tutu, 16 ministers of the United Reformed Church asked for the postponement of the hearing because Dr Boesak had not been invited to make a submission.

They said if Dr Boesak was not given an opportunity to describe his experiences, "a vital part of the role and experiences of the people of the Cape Flats in the history of our country will go by unrecognised."

"We are pleading with you to seek the truth with regard to the UDF in a much more balanced way by also calling the man at the centre of this movement to help tell the truth about the UDF to the nation," they said.

Mr Boesak is awaiting trial on charges of fraud and theft.

Temple blast justified, claims 1983 bomber

Amnesty sought for 31 missions

(9572) AKG 7/15/98

Pretoria - The limpet mine placed outside the Temple of Israel Synagogue, Hillbrow, in 1983 was justified because of South Africa's close links with Israel at the time, and because of an impending visit there by then state president Marais Viljoen, the Truth Commission heard today.

This was evidence by Mohammed Iqbal Shaik, a member of the African National Congress armed wing, Umkhonto weSizwe, and one of its most successful operatives.

He is applying for amnesty for 31 operations - mainly limpet mine attacks - over 11 years, during which he dodged the police.

These operations included limpet mine attacks on the Ciskei Consulate in the Carlton Centre, Johannesburg in August, 1983, the security police's Soweto East Branch in Rodepoort in August, 1984, the Railway Police's radio room in Johannesburg, also in August, 1984, and a car-bomb attack on the Krugersdorp Magistrate's Court and police station complex in March, 1988, in which three people died and 20 were injured.

Mr Shaik told the amnesty panel that he and a friend, Mohamed Abdull-hal Ismail, had been recruited by Mr Ismail's brother, senior MK officer Aboobaker Ismail, to form the so-

called "Dolphin" unit of MK's Special Operations, functioning exclusively within South Africa.

Advocate Louis Visser SC, for some of the victims of the attacks, asked Mr Shaik how he could justify the attack on the Hillbrow synagogue.

"I've not heard of ANC policy that governments or other states who co-operated with South Africa had become legitimate targets. Are you saying that?" he asked.

Mr Shaik replied that the state of Israel had not been a target, nor had synagogues in general.

"One has to see this in the political context of the day - there were strong parallels between the State of Israel and South Africa, and there was also military, economic and political co-operation."

"And the Temple of Israel was to have state president Marais Viljoen



JOHN YELD
ON THE TRUTH COMMISSION

coming the next day, and we felt we needed to make a political statement.

"And the bomb I placed was not inside, it was outside," he added.

Mr Shaik, who objected to Mr Visser's description of his unit as "a hit-squad", also said he considered the Judges' Chambers at the Johannesburg Supreme Court, where he placed a mini-limpet mine, to have been a legitimate target.

"Of course - the judiciary was part and parcel of the apartheid system. It (the judiciary) upheld and enforced it."

Mr Visser also questioned Mr Shaik's May, 1985, attack on the Transvaal Medical Command of the then South African Defence Force in Hillbrow with two mini limpet mines, in which 16 people were injured.

Mr Visser said he understood that medical personnel were not targets in terms of the Geneva Protocol, to which the ANC was a signatory.

Mr Shaik replied: "I have no comment on that - I am not too familiar with the Geneva Protocol."

Mr Shaik gave details of the car-bomb attack on the Krugersdorp Magistrate's Court, explaining that he had hoped to detonate a decoy charge placed in a toilet used by police officers to draw them to the scene and have civilians cleared from the area.

Mr Shaik also questioned Mr Shaik's May, 1985, attack on the Transvaal Medical Command of the then South African Defence Force in Hillbrow with two mini limpet mines, in which 16 people were injured.

Mr Visser said he understood that medical personnel were not targets in terms of the Geneva Protocol, to which the ANC was a signatory.



RECONCILIATION
TRC secretary Eleanor Momborg sorts through reparations notices

Reparation notices sent to first 700

(9572) AKG 7/15/98
STAFF REPORTER

Notices have gone out from the Truth and Reconciliation Commission to the first 700 people eligible to apply for reparation.

The 700 are officially designated victims of gross human rights abuses. Commission chairman Desmond Tutu described the event, the culmination of two years' work by TRC staff, as "exciting and historic."

"This is historic because it finally allows dependents to apply for reparation."

"The commission has spent two years collecting statements, hearing public testimony from a cross-section of those who gave statements and individually corroborating each one of the more than 20 000 statements received," Archbishop Tutu said.

Not all those applying for reparation will be successful because people have to meet the requirements of the Promotion of National Unity and Reconciliation Act that governs the commission.

Archbishop Tutu said that in the next two months the commission hoped to complete the findings on each statement and send out more than 2 000 reparation application forms a week.

Interim reparations are once-off payments, normally a maximum of R2 000, for victims or their dependants who have suffered hardship and are in need.

After their first successful operations, most of which were given wide publicity, they were given permission to select their own targets provided they were within African National Congress guidelines.

"Our instructions were to recon-

noitre and attack government buildings, railway lines, sub-stations, homeland government structures, police or security force personnel or buildings. Strong emphasis was placed on avoiding civilian lives at all times."

MK bomber was active for 11 years without getting caught

(9572) AKG 7/15/98

Pretoria - One of Umkhonto weSizwe's most successful bombers has started telling the Truth Commission about 31 operations he carried out without being caught.

Mohammed Iqbal Shaik was active over an 11-year period, but was never caught by the police. His operations included limpet mine attacks on the Ciskei consulate in the Carlton Centre, Johannesburg in 1983, the security police Soweto East branch in Rodepoort in 1984, the railway police

radio room in Johannesburg in 1984, and the Krugersdorp Magistrate's Court and police station complex in March, 1988, in which three people died and 20 were injured.

Mr Shaik, who started testifying in his amnesty application yesterday, said he and a friend, Mohamed Abdull-hal Ismail, had been recruited by Mr Ismail's brother, senior MK officer Aboobaker Ismail, to form the so-called "Dolphin" unit of MK.

"Until 1985, we were jointly involved in most operations. Thereafter, I continued with further operations on my own."

Loss of lives was 'part of policy'

Stephané Bothma

PRETORIA — During the anti-apartheid struggle, the African National Congress (ANC) could not, for the sake of saving a few civilian lives, have been prevented from striking at the National Party (NP) government, former Umkhonto we Sizwe (MK) special operations unit chief Aboobaker Ismail told the truth commission yesterday

Testifying in his application for amnesty on 13 acts of gross human rights violations which took place during the ANC's armed struggle in the 1980s — including the Church Street car bomb in Pretoria in 1983 which left 19 dead and more than 200

injured — Ismail said occasional loss of civilian lives was part of the ANC's policy at the time

Ismail said that although he had not taken part in detonating the car bomb, it had been his decision to select the SA Air Force headquarters in Pretoria as a suitable target

"Our information showed that an overwhelmingly large number of military personnel would be outside the headquarters at 4.15pm," he told the amnesty committee

He said the bomb detonated earlier than planned and killed the two MK cadres who had parked the car, loaded with explosives, outside the building

Ismail said he had been

aware that a number of businesses and shops were on the ground level of the building

Reacting to a statement by advocate Louis Visser SC, representing victims of the bombing, that "victims find it hard to understand how they were considered part of the military machine if they were mere typists and telephonists, Ismail said an air force headquarters housed a large number of senior military personnel. "A soldier is a soldier — they were there to protect the interests of the NP government," he testified, adding that any target which formed part of the state infrastructure had been legitimate

Ismail compared the ANC's

struggle for liberation with the overthrow of Nazism during the Second World War, saying the aim of the Church Street blast had been to attack the soft underbelly of the former security forces and to show that not only MK cadres bled

Visser suggested that if the ANC had been serious about attacking military targets, it should have selected hard targets such as the defence force's parachute battalion base

"The ANC did not have the resources to engage in conventional war with the SA security forces and therefore had to resort to unconventional methods," Ismail said

The hearing continues

UDF 'condemned' necklacing

CAPE TOWN — The United Democratic Front had disapproved of necklacing and condemned its use on several occasions, former UDF leader Azhar Cachalia told the truth commission yesterday

Giving evidence as one of a number of former UDF leaders to the human rights violations committee, Cachalia, now head of the SA Police Service's civilian secretariat, said this disapproval was communicated through the media and discussion among UDF affiliates

However, he said that the UDF had little direct control over the development of the necklacing incidents — in which victims had tyres placed around their arms, were doused with petrol and set alight.

The UDF's capacity and ability to intervene was limited due to the negative impact on the organisation of the state of emergency in the mid-1980s, he said.

"The UDF constantly made public statements distancing itself from such conduct"

Reading the UDF's main submission into the record, North West premier Popo Molefe said state acts of brutality, systematic detention and banning of UDF and other leaders had created the space for uncontrolled acts of violence by angry mobs, especially youths

Restrictions imposed on the UDF in terms of the state of emergency confined the activities of the organisation to office administration and placed most of its leadership in detention

"This severely hampered the ability of the UDF to moderate, prevent or curtail the activities of angry activists and supporters of boycotts and work stoppages," Molefe said.

"It is in this context that various gross violations of human rights were committed against suspected opponents of the mass protest action and supporters of the state"

African National Congress national chairman Patrick Lekota, also chairman of the National Council of Provinces,

paid tribute to patrons whom the UDF could approach at critical times. These included Dr Allan Boesak, Dr Beyers Naude, Archbishop Desmond Tutu and the late Helen Joseph

Lekota said the UDF was founded in the hope that government would listen to moderate voices in the country, especially when considering other organisations had been driven to arms.

"We did our best to act responsibly as citizens," he said.

The UDF submitted that it was known that the ANC was a prominent but banned ally. In the latter part of its life, the UDF consulted and agreed on campaigns with the banned ANC, while maintaining distinct organisational structures and accountability

The UDF was launched in 1983 with the support of about 600 organisations.

Cachalia said the UDF deeply regretted any loss of life or injury that resulted from its quest for justice — Sapa.

First reparations decision made

CAPE TOWN — The truth commission yesterday announced its first decision on reparations for some victims of apartheid-era human rights violations

After more than two years of research, public hearings with more than 2 500 people and statements from more than 20 000, the commission said it had written to a first batch of 700 people telling them they could claim for damages

"For now it will only be interim reparations up to a maximum of about R2 000," John Allen, spokesman for commission chairman Archbishop Desmond Tutu, said

"The final level of reparations will have to wait until we have made our final report, the government has read it and parliament has decided"

The commission said it aimed to send findings to more than 2 000 victims a week. The minority who had not been judged to have been victims would be told in due course and they could appeal — Reuter

How to get the best onto South Africa's Bench

ST 17/5/98

(252)

But much needs to be done to attract judicial paragons when it comes to putting more representative judges on the job, writes CARMEL RICKARD

THE judiciary has become an easy target for point-scoring, after the notorious petition by 14 Kwazulu Natal judges supporting the promotion of a former Broederbond colleague while trying to block his black opponent

Witness the comments by provincial ANC officials after expelled former ANC leader Sfiso Nkabinde, charged with six counts of murder, was recently acquitted by Judge Jan Combrink in the Maritzburg High Court. The judge, they declared, was nothing more than an "accomplished fascist"

Their proof? The outcome of the case, together with the fact that the judge was one of the 14 who signed the petition

When politicians follow up such sniping by urging the immediate transformation of the Bench, "transformation" may appear little more than the appointment of judges who will deliver decisions favourable to the party in question

Clearly, however, transformation is needed, and judges, taken collectively, must be more representative. The Constitution articulates clear public feeling when it says the judiciary must "reflect broadly the racial and gender composition of South Africa." But it also says the judiciary functions in courts that are "independent and subject only to the Constitution and the law, which they must apply impartially and without fear, favour or preju-

dice." In other words, judges must not only be independent — of both present and past governments — but must also understand the passionate heart of the Constitution and be committed to upholding its values

The appointment of such a judicial paragon depends on three factors

- A selection mechanism which favours candidates who fit these criteria,

- Judicial vacancies which new candidates committed to these values can fill, and

- Suitable candidates offering themselves for appointment

Most Judicial Service Commission members clearly support these criteria and those candidates who fit them. If the public feels judicial transformation is too slow, the fault lies neither with the commission nor the Constitution

Judicial vacancies, on the other hand, occur less frequently than dedicated transformers, lobbying for wholesale resignation of the Bench, might like. But it would not be difficult to accelerate this turnover

Until recently, judges could retire with full pension benefits only after reaching 70. But Kwazulu Natal's Judge President, Allan Howard, recently helped ensure Parliament passed an amendment allowing retirement with full benefits at 70 — or after 20 years on the Bench

But these figures could be re-

duced still further if Parliament was keen on creating vacancies to speed up transformation. Constitutional Court members, for example, serve a single non-renewable term of 12 years

Far more difficult is finding candidates of quality prepared to stand for appointment. Some excellent lawyers still offer themselves, but the commission is more often faced with unsuitable nominees

Years ago, judicial appointment was seen as the climax of a legal career, but the status and appeal has waned. Salary is a big problem. Princely to most South Africans, a judge's pay represents a serious cut for a successful senior lawyer

In the past, when the Bench was open only to whites, peer pressure helped ensure that white senior advocates accepted a post on the Bench despite the drop in income (although some refused, citing political or moral objections)

The potential appointee would be reminded of his duty, that he had had an opportunity to make good money and that it was now time to "put something back into the community" by accepting an appointment

However, that kind of pressure now seldom works

Many senior white male lawyers believe they stand no chance against black and female candidates, and are reluctant to risk an interview

There is a serious shortage of black and female lawyers, and

this already small pool is in great demand. Those who urge a judicial career in the name of duty simply cannot match the vigorous wooing of business

Government priorities would not allow a significant increase in judicial salaries. However, some lawyers say that if working conditions were made more attractive it might help militate against the drop in salary

They refer to the sometimes-unbearable pressure of judicial work, particularly in Johannesburg, and to the lack of resources in all the High Courts

But this still fails as a systematic response to the problem. Clearly, a well-run recruiting operation is needed, instead of waiting for people to come forward. A few judges president do some informal shopping around, so do some legal organisations. In the Labour Courts, Judge President John Myburgh has gone even further, developing a reputation for carefully picking and prodding, cultivating and encouraging candidates with potential. Similar work needs to be done with potential High Court candidates — but by whom? The Judicial Service Commission lacks the resources, while any other body would have to guard against allegations of gate-keeping

These are challenging problems. The answers do not involve unilateral constitutional amendments. But, until they are solved, judicial transformation cannot become a reality

Justice system needs cash boost

show 8/15/98

Innovative measures might amount to nothing without resources to realise them

By CLIVE SAWYER
Independent Parliamentary Bureau

Creative thinking is helping the criminal justice system do more with less

But a question mark hangs over whether innovative measures will be enough as the inadequacy of funds for the criminal justice system hits home

This week the state of battle in the war against crime came into sharp focus through the reports of provincial attorneys-general, Democratic Party proposals to fight gang-related crime in the Western Cape, and policy speeches by the ministers of correctional services, justice, and safety and security

Justice Minister Dullah Omar offered some cause for hope towards the end of the week with his announcement of legislation to outlaw membership of gangs or any other criminal organisation

Hours after the Woodstock gang slayings last weekend, the DP released a report which found Western Cape policing to be grossly under-resourced and under-funded, and urged more than 20 measures, including more funds for the joint police/defence force exercise Operation Recoil.

Statistical shortcomings showed up in Safety and Security Minister Sydney Mufamadi's inability to tell Parlia-



Giving hope ... Dullah Omar

ment how many people had been murdered in car hijackings "because such figures are not kept separately"

But the police's problems go beyond the mere keeping of statistics

Mufamadi accompanied police chief executive Meyer Kahn to see Finance Minister Trevor Manuel to plead for more money to make up a deficit in funding which is needed to keep even the most basic level of policing going

Western Cape Attorney-General Frank Kahn, in his annual report to Parliament, labelled as "insufficient" the less than 1% of the national Budget which is set aside for the Justice Department

Omar could boast of some achievements, in spite of this

underfunding

In his policy speech to the National Council of Provinces, Omar outlined achievements in creating a more efficient court management system, and new steps to use automation to reduce the administrative burden of fines and maintenance payments

Good news from the treasury was that the creation of additional posts in the Department of Justice had been approved

Omar was also able to announce the expansion of the innovative and successful pre-trial services office

The third pre-trial services office is being opened in Durban today, following successful projects in Mitchell's Plain and Johannesburg

Pre-trial services uses technology in the form of an offender database and a case-tracking system, helping to cut costs by reducing the unnecessary detention of low-risk accused

The system screens and tracks alleged offenders and provides court-based services to witnesses, making it less likely that accused will be able to escape the justice system, intimidate witnesses or fail to return to court when expected

It will enable courts to make informed decisions about bail by providing a wide range of information about an offender,

including community ties, job and salary information, and previous convictions

The reduction of the number of awaiting-trial prisoners is good news from Correctional Services Minister Sipo Mzimela, who need not complain about this year's budget allocation

The budget at least matches the costs for the number of prisoners the department is expected to house, despite the increasing problem of prison overcrowding

Mzimela's money-saving proposals, outlined in the National Council of Provinces this week, include the much-increased use of electronic monitoring, a personal appeal made to courts to sentence offenders to community supervision rather than incarceration, and the conversion of inner-city buildings into prisons

It is quite likely that the legislative package announced by Omar, with its crackdown on gang membership, could prove to be of some comfort to the thousands of people living in fear of the next time the bullets fly

But unless the money is found to pay for more police, more police overtime, and further deployment of troops to back up policing in operations such as Recoil, finely worded laws may not be enough if they cannot be enforced

(2/12)

Rockets were passed off as stolen pipes, and a R20 bribe later they were being fired

Shown on 1/15/1988

A R20 bribe to a policeman saved an Umkhonto we Sizwe (MK) rocket attack on Defence Headquarters at Voortrekkerhoogte, the Truth Commission's amnesty panel was told in Pretoria yesterday.

Johannes Mnisi (also known by his MK codename Victor Molefe) said the policeman unwittingly stopped the five-man group but then accepted a R20 bribe after first threatening to arrest them for having "stolen pipes" in their possession.

Mnisi is the only surviving member of the five-man unit - the others all died in later MK operations.

Headquarters in Church Street, central Pretoria in May 1983, the car-bomb attack on Magoo's Bar in Durban in June 1986, and the car-bomb attack on the Wits Command building of the

66

Onlookers thought it was an army exercise

SADF in central Johannesburg in July 1987.

He took part personally in some of these operations, either helping to plan them, procuring weapons, or pre-

paring explosives

Mnisi told the amnesty panel that the five-man MK special operations unit, headed by Barney Molakwane (his codename) had been ordered to attack Voortrekkerhoogte with five 122mm rockets, fired from a GRAD-P rocket launcher.

The rockets had been brought into the country by "international sympathisers", who had also rented a smallholding close to Voortrekkerhoogte that the MK unit used as its base.

Mnisi said that on the day of the attack, he and his comrades had taken the weapons from the smallholding to the firing point, which was about 500m from the military base between Erasmus and Laudum.

"We were supposed to carry out the operation at about

9 30pm or 9 45pm, but there were disturbances," he said

There was a police station less than 1km from the firing point, and as the MK cadres were carrying the rockets and the launcher to the site, they were accosted by a policeman.

"He did not know what it (the weapon) was, and he asked us what we were doing with those pipes," Mnisi said. "We told him we had stolen them and were taking them to Atteridgeville."

"He asked us whether we knew we could be arrested for being in possession of stolen property. We just gave him R20 and he let us go."

After they had launched the first rocket - four of the five detonated on impact in the base, causing damage to buildings and injuring one woman - the situation became "very

serious", Mnisi said. "When we were shooting, people came out to watch, and some of these people were sitting on the (getaway) car."

These residents had mistakenly believed they were watch-

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There were roadblocks all over the place

ing an SADF practice operation. The driver of the getaway car, Philemon Malefo, had realised he could not wait for the attack to finish and had driven off. The remaining four MK

cadres had then been forced to hijack the car of a resident in nearby Laudium, Mnisi said. "This Indian got into his car and we asked for a lift. He did not trust us but we just got in. He said he wasn't in a position to give us a lift. Barney got angry and he shot him, and thus man fled into his house. "And people started shooting at us because of the shot Barney had fired." The five escaped, and while three of the MK cadres returned to the smallholding to hide out, he had gone to the Pretoria township of Mamelodi to find Malefo, he said. "I didn't find him that night, only the following day, but we couldn't leave because there were roadblocks all over the place." The hearing continues today - Pretoria Correspondent

LINDSAY YOUNG



Admission ... Mohammed Shaik at yesterday's TRC amnesty hearing.

Blast was over ties with Israel, TRC told

Appl 8/15/08 (15/08)

Synagogue targeted ahead of state president's visit in 1983

By **ROBERT BRAND**

Umkhonto weSizwe operative Mohammed Iqbal Shaik bombed the Temple Israel synagogue in Hillbrow because of the military and economic ties between South Africa and Israel at the time, the Truth and Reconciliation Commission was told yesterday.

Shaik (39), who was a member of the ANC's special operations unit, has applied for amnesty for a series of bombings in the 1980s.

Shaik has admitted planting a limpet mine outside the Temple Israel synagogue in 1983 the night before then-state president Marais Viljoen was due to visit it.

He told the TRC's amnesty committee the limpet mine was set to explode in the early hours of the morning so as not to injure civilians.

Shaik was asked by Louis Visser SC, who is appearing for victims of some of the blasts, how an attack on a synagogue could have a political objective.

“There were strong parallels between the state of Israel and the state of South Africa at the time there was economic

co-operation, there was military co-operation. In that regard we felt we had to make a political statement and that is why we identified (the synagogue) as a target,” Shaik said.

He dismissed the suggestion that the attack had anti-Semitic overtones.

“Synagogues are not a legitimate target. This particular one was because Mr Viljoen was coming to visit the next day.”

Shaik also admitted taking part in many other bomb attacks in and around Johannesburg at the time. Among them was the Krugersdorp car-bomb blast on March 17 1987, in which three people were killed and 20 injured.

He told the committee the bombing had been planned to cause maximum casualties to security forces in the area. He said the intention was to detonate an explosive device in a toilet used by policemen so that it would act as a decoy to attract more policemen from the nearby SA Police headquarters to the area where the car bomb was set.

However, the first decoy failed to detonate and the car bomb exploded, resulting in the

death of two security force members and one civilian. Visser suggested this was a callous way to conduct a war, and Shaik replied that he rejected this and believed the attack was justified.

Shaik denied that another MK member, Hein Grosskopf, participated in the Krugersdorp attack. He said he had never seen or met Grosskopf until after the attack, and believed he was wrongly accused of being involved in the blast.

Shaik said media reports wrongly named Grosskopf as being involved. Grosskopf has applied for amnesty for an attack on the Wits Command in De Villiers Street, Johannesburg, in March 1987. A soldier was killed and 68 people were injured.

Grosskopf, who lives in London, submitted his application for amnesty but informed the TRC he would not be appearing in person. His name was withdrawn from the roll and his application will not proceed until he agrees to appear in person. The hearing continues.

▶ Bomb touches raw nerve



GANG FIGHTER: Dullah Omar's new law gives the justice system the power to put the bite on crime bosses.

Omar's i down or

CT 8/5/98 (252)
While Attorney-General Frank Kahn, his address to Parliament this week, looked at the problems posed by gangs and drugs, Justice Minister Dullah Omar has announced new laws to combat organised crime. **ANDRE KOOPMAN** our Parliamentary Bureau reports.

TOUGH new laws similar to those used in the US to fight the Mafia would be introduced to combat organised crime in South Africa, Justice Minister Dullah Omar announced yesterday.

The Organised Crime Bill would make it an offence to participate in any organisation that had committed serious offences, Omar said yesterday at a briefing.

It would allow the authorities to seize assets used in committing a crime and — more significantly — assets that are the proceeds of crimes, in terms of civil legislation. The US's Drug Enforcement Agency and its attorney-general's office in terms of similar legislation have seized millions of dollars made in the cocaine trade, palatial homes and executive yachts.

Omar said that one of the biggest problems in dealing with organised crime was in proving the direct involvement of gang bosses in crime.

"They do not do the actual criminal work themselves and orders are conveyed through other persons and often in code."

The present common laws of conspiracy and common purposes were inadequate to deal with organised crime and international syndicates were coming to South Africa in growing numbers.

To this end, the tough new Organised Crime Bill similar to the US Rico (Racketeering-Influenced Corrupt Organisations) legislation aimed at racketeering and the Mafia would make it easier to secure convictions against crime bosses.

"It would be sufficient to prove that they (crime bosses) participated in the activities of illegal organisations," Omar said.

"It would not be necessary to prove that they are directly linked to a specific offence. Obviously it must be proved that an organisation exists, this is usually not difficult as the definition of a criminal organisation is very wide," he added.

Speaking about the nature of the proceeds of crime, he said that a house used in crime could be seized if it was "on the balance of probabilities" that crimes were committed there, even if there is not sufficient evidence to prove that the owner is guilty of an offence.

He hoped that the Organised Crime Bill would come before Parliament later this year. He set up a special task team to study the bill and investigate the feasibility of his proposals.

In terms of this bill, the National Prosecutorial Bill (NPA) the pursuit and investigation of crime bosses would be easier because police and attorney-general's office would work together in prosecutions. At the investigation stage, Omar said.

The NPA bill would create a national director who would be charged with investigating international crime syndicates, including drug cartels and gang bosses.

Omar also said that he would build on Attorney-General Kahn's efforts to establish an organised crime unit similar to the Office for Serious Fraud Offences.

The justice ministry and the parliamentary justice committee had been in close touch with justice systems elsewhere and had studied the methods other countries used in the war against organised crime.

A Western Cape police unit had also conducted a study of US gangs in Florida and California.

After careful consideration and research, the model legislation was the Rico Act. The Organised Crime Bill is open to public comment and has been shown in the US. Unnecessary prosecutions under the Rico Act.

Safeguards would be built into the system and only the attorney-general would be able to initiate prosecutions in terms of the Organised Crime Bill, Omar said.

Drug kingpins to be outlawed

ANDRE KOOPMAN
PARLIAMENTARY BUREAU

MEMBERSHIP of street gangs, which have been violently disrupting Cape Flats communities, will be outlawed in terms of strict new legislation which will give more "firepower" to police and prosecutors in the war against crime, Justice Minister Dullah Omar said yesterday.

The Organised Crime Bill will be used to fight gangs with a public profile such as those usually characterised by well known names, dress codes and behaviour, Omar said at a press briefing.

These drastic measures representing "probably the toughest legislation yet proposed by this government" were necessary in the war against crime. They were in line with President Mandela's pledge earlier this year that the government will "fight fire with



TOUGH ON CRIME: Willie Hofmeyr

overwhelming fire", Omar said.

Acting chairperson of the justice committee Mr Willie Hofmeyr, ANC MP, said the law would make it illegal to belong to a gang which has criminal objectives and an offence to recruit people into gangs.

It will be illegal for self-confessed drug dealer Rashied Staggle to say that he is leader of the Hard Livings gang and all members of that gang would be in trouble with the law, Hofmeyr said.

Gang membership would also be an aggravating factor in court sentences.

It provides for the authorities to seize assets used to commit a crime or that are the proceeds of crime.

Omar said "if a house is used for drug dealing it can be seized if it can be proved on a balance of probabilities that crimes were committed there, even if there is not sufficient evidence to prove that the owner is guilty of the offence."

"In Cape Town we have examples of many such houses owned by well known-drug lords."

"Such legislation will enable the state to act against them," he added.

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Parliament's new law cracks down on crime bosses

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Cape Attorney-General Frank Kahn, in Parliament this week, outlines proposals to combat crime problems posed by gangsters. Minister Dullah Omar says the new laws will be used to combat crime. **ANDRE KOOPMAN** of the Bureau reports.



JUSTICE: Cape Attorney-General Frank Kahn

Speaking about the civil forfeiture of the proceeds of crime, he said that a house used in drug dealing could be seized if it were proved "on the balance of probabilities that crimes were committed there, even if there is not sufficient evidence to prove that the owner is guilty of an offence"

He hoped that the Organised Crime Bill would come before Parliament later this year. He has set up a special task team to draft the bill and investigate the feasibility of his proposals.

In terms of this bill and the National Prosecutorial Authority Bill (NPA) the pursuit and conviction of crime bosses would be made easier because police and the attorney-general's office would work together in prosecutions from the investigation stage, Omar said.

The NPA bill would create a national director who would be charged with investigating international crime syndicates, including drug cartels and gang bosses

Omar also said that he supported Kahn's efforts to establish an organised crime unit similar to the Office for Serious Economic Offences

The justice ministry and the parliamentary justice committees had been in close touch with justice systems elsewhere and had studied the methods other governments used in the war against organised crime

A Western Cape police team had also conducted a study tour of US gangs in Florida and California

After careful consideration and research, the model selected as a basis for the South African legislation was the Rico Act. The Organised Crime Bill is open to abuse, as has been shown in the US with unnecessary prosecutions under the Rico Act.

Safeguards would be built into the system and only the attorney-general would be able to institute prosecutions in terms of the Organised Crime Bill, Omar said

Mandrax, dagga still top drugs

MANDRAX and dagga are still the most prominent drugs in the Western Cape, Cape Attorney-General Frank Kahn says in his report to Parliament

Drugs with an overall street value of R50 million had been seized and 1 649 people had been arrested for a total of 10 938 offences

Kahn said police, intelligence indicated that dagga sold in Europe for £13 (R104) an ounce. The enormous profit margin made it lucrative to export containers of compressed dagga to the UK, where they were also exchanged for ecstasy and LSD

"It is clear that our transition to democracy and re-entry into international markets have rendered this country more vulnerable to exploitation by international drug syndicates," Kahn said. Last year 66 people had been arrested for possessing cocaine, 10 for crack, 13 for heroin and 57 for ecstasy

The classroom, rather than the courtroom, was still the place where the main battle against drugs should be waged, Kahn said — Justice Writer

Kahn slates series of bungled investigations

RONALD MORRIS

CAPE Attorney-General Frank Kahn yesterday angrily lashed out at another police bungle which led to the withdrawal of a murder charge against alleged Pagad member Ebrahim Jeneker for the death of Hard Livings gang member Moneeb "Bowtie" Abrahams

Kahn said police appeared too eager to respond to public pressure in high-profile cases and produce an accused without having sufficient evidence. He said his office was then placed in the embarrassing position of having to withdraw cases

Jeneker was arrested at Abrahams' funeral on January 21 when a small arsenal of firearms was

found on the same weapon.

"We are not getting the investigative support from the police which is required

"This office is obliged to approach cases as lawyers and we will not use the court process to satisfy public hysteria"

Kahn said that in apartheid South Africa the best policemen were taken out of their ordinary duties and placed in the security police, which had subsequently been dismantled. A vacuum of talent had now crept into the force

Police had shown in the past that they could be effective against their political opponents

"Has the time not come for the police to do the same against

the court at the time that a key witness who had placed Booley at the scene of Staggie's death and who had linked him to the shooting, had deviated from his statement in material aspects

Viljoen, who investigated the bungling of Booley's prosecution, said Booley had allegedly tried to sell a bloodied necklace chain to a gangster, who turned it over to police

A policeman kept it for some time before turning it over to the investigating officer. When the chain reached Pretoria for forensic tests the blood had been wiped clean

In February this year, charges against Pagad national co-ordinator Mr Abdoes-Salaam Ebrahim

Grosskopf had nothing to do with Krugersdorp bomb

PRETORIA: Mr Hennrich Grosskopf, who was sought for a long time in connection with the Krugersdorp car bomb in March 1987, had nothing to do with the attack, former uMKhonto wesizwe (MK) cadre Mr Mahomme Iqbal Shaik, told the Truth and Reconciliation Commission here yesterday.

Grosskopf, whom police linked to the attack that killed three people and injured 20 at the Magistrate's Court and police complex in Krugersdorp, was also named in media reports at the time as a suspect

Shaik, 39, who belonged to the ANC's special operations unit that carried out the attack, said Grosskopf was not involved. He told the TRC's amnesty committee that he had not known or heard of Grosskopf until after the blast, saying Grosskopf had been tried by the media for something he had not even been connected with.

Grosskopf has applied for amnesty for an attack on the Wits Command in De Villiers Street in Johannesburg in March 1987. One soldier was killed and 68 people injured in the blast.

CT 8/5/98

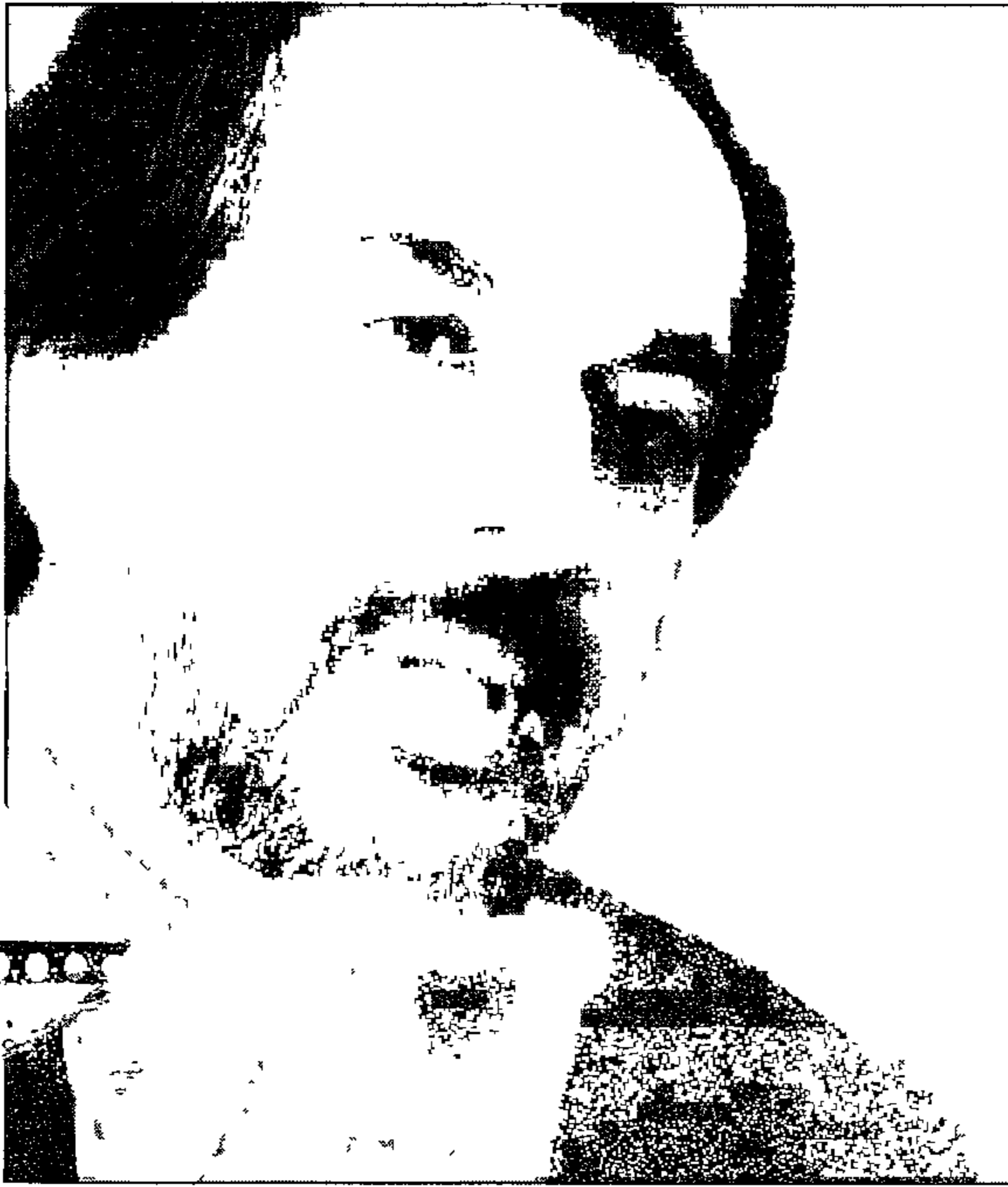
Now living in London, Grosskopf has submitted his application for amnesty, but has informed the TRC that he will not appear. His application will not be dealt with unless he appears.

Shaik is one of 10 former MK members applying for amnesty for the ANC's bombing campaign in the 1980s. He has admitted planting a limpet mine outside the Temple of Israel Synagogue, where former State President Marais Viljoen was due to address a meeting the following day.

He said the limpet mine was set to explode in the early hours of the morning so as not to injure civilians.

Asked by Mr Louis Visser, SC, who is appearing for victims of some of the blasts, how the attack on a synagogue could have a political objective, Shaik said South Africa and Israel at the time co-operated on a political, economic and military level and the attack was therefore justified.

Regarding the Krugersdorp blast, Shaik said it was planned to cause maximum casualties to the security forces in the area. The hearing continues today. Sapa



Aboobaker Ismail at the Truth and Reconciliation Commission's amnesty hearings in Pretoria this week.

All equal in the eyes of the TRC

(252) Sowetan 8/5/98

Claire Keeton Feature writer

WHY does a hero of the liberation struggle have to defend his actions to a lawyer who made his reputation, and wealth representing the apartheid police?

The reason is simple all amnesty applicants are equal before the Truth and Reconciliation Commission (TRC). All "perpetrators" are required to account for their actions to the TRC's amnesty committees.

This is why senior Defence Force member Aboobaker Ismail must convince Advocate Louis Visser that a bombing campaign in the '80s - for which he takes responsibility - was conducted with a political objective.

The injustice of equating the actions of South Africans fighting for freedom with those fighting to maintain apartheid was clear at this week's amnesty hearing in Pretoria.

It is the first major hearing into gross human rights violations committed by members of the the African National Congress.

Ten members of the Special Operations Unit of its military wing, Umkhonto we Sizwe (MK), are applying for amnesty for high-profile bombings between 1980 and 1987. They include Ismail, the campaign's mastermind.

More than 20 people were killed and over 350 injured in the attacks, during which MK cadres made a determined effort to avoid loss of civilian life. They were successful most times except in the May 1983 Church Street bomb in Pretoria, when many civilians were hurt and killed.

Visser is opposing the amnesty applications on behalf of five victims (including two from the Church Street explosion) on the grounds that "there is serious doubt of a political motive or that full disclosure is made".

Ismail argued that MK's armed struggle was morally justified and politically motivated.

He felt that MK operatives were fighting for democracy and freedom in South Africa - always at a great cost to themselves and their loved ones. Some times even sacrificing their lives.

Members of the apartheid security forces, on the other hand, were fighting

'They were callous, especially in their treatment of civilians'

to maintain oppression, discrimination and privilege.

"(The security forces) could not (be allowed to) think they could go on doing anything they wanted because they had the guns," Ismail said, during cross-examination by Visser about the selection of MK's targets.

He said members of the apartheid security forces - which had caused the deaths of hundreds of civilians - were a legitimate target and had "to bleed".

"We needed to make the enemy security forces bleed. They were callous, especially in their treatment of the civilian population."

Visser concentrated on the distinction between hard military targets or soft civilian targets in his cross-examination, and argued that MK was callous and that their actions were not justified.

He said that telephonists and typists from the South African Air Force headquarters in Church Street could not be seen as military targets.

Ismail countered that all members of the security forces were targets. "No military machine will work without its administrative personnel. They are part of the whole and the whole was targeted."

He said "We did not target civilians. However, the policy of the ANC at the time was that we could not for the sake of saving a few lives be prevented from striking at the power of the state, the apartheid state."

Ismail said the condemnation of civilian deaths escalated only when white civilians were killed since it was implicitly accepted that "when you shoot an African, you are not killing a civilian".

He referred to massacres and cross-border raids when civilians had been killed by South African security forces.

Ismail said resistance to apartheid led the ANC from non-violent action to armed struggle. "Armed propaganda aimed at showing the oppressed that the enemy was not invincible and that the

ANC had the ability to strike at the heart of the apartheid war machine," said Ismail in his explanation of the political objective of the bombings.

"Our nation was broken up on the basis of apartheid, on the basis of a racist ideology that was condemned internationally. There would not have been a struggle if there hadn't been an apartheid state."

"What was the cause of the bitterness and suffering? Apartheid."

Ismail is seeking amnesty for 13 acts under his command including the Church Street bomb, a bomb at the Krugersdorp court and police station, attacks on the Sasol oil refineries, the Voortrekkerhoogte Military Base, Wits Command and other police stations and government offices.

Ismail said that MK commanders were deployed to meet their units in the late '80s - when attacks did not follow ANC policy to avoid indiscriminate civilian targets - to remind cadres of what "they can and cannot do".

"It was contrary to ANC policy to select targets whose sole purpose was to strike at civilians," said Ismail.

He said that the late ANC president Oliver Tambo and the late MK chief of staff Joe Slovo closely supervised the movement's armed struggle.

"When OR (Tambo) visited Mozambique, he would ask us to go through the planning with him. He paid close attention, particularly around the mandate of the ANC and his responsibility in this regard," said Ismail.

"The attacks on civilian targets were inspired by anger at the regime's attacks inside and outside the country. (Also orders were given to) agents of the Pretoria regime to carry out bomb attacks to sow confusion."

One of Ismail's operatives, Mohammed Iqbal Shaik, testified after him about successfully planting bombs in various government offices. He said that MK operatives were told categorically and clearly to minimise loss of civilian life.

Ismail told the TRC that he regretted the loss of lives of innocent civilians and of many MK cadres. In his statement he concluded "I am proud of the bravery, discipline and selfless sacrifices of the cadres under my command. Many of them laid down their lives in the pursuit of freedom for all in South Africa."

R20 bribe launched rocket strike

Cop thought Voortrekkerhoogte raiders had 'pipes'

ARt 8/5/98 (252)

Pretoria - A R20 bribe to a policeman allowed an Umkhonto weSizwe (MK) rocket attack to go ahead at the SA Defence Force HQ at Voortrekkerhoogte, the Truth Commission has been told.

And when the attack began, nearby residents came out to watch, thinking it was an SADF exercise

Johannes Mhisi (MK code-name Victor Molefe) said the policeman, mustook a rocket launcher for "pipes" when he stopped the five-man MK unit on its way to carry out the attack. He accepted a R20 bribe after threatening to arrest them for having "stolen pipes" in their possession. Mr Mhisi is the only surviving member of the unit - the others died in later MK operations



ON THE TRUTH COMMISSION

Mr Mhisi is applying for amnesty for his involvement in
■ Limpet mine attacks on power stations and pylons in the early 1980s
■ The rocket attack on Voortrekkerhoogte in 1981
■ The car-bomb attacks on SA Air Force headquarters in Church Street,

Pretoria, in 1983, Magoo's Bar in Durban in 1986 and the Wits Command building of the SADF in Johannesburg in 1987

He took part in some of these operations and helped prepare the others. Mr Mhisi told the amnesty panel that the five-man MK special operations unit headed by Barney Molakwane (a code-name) had been ordered to attack Voortrekkerhoogte with five 122mm rockets fired from a Grad-P rocket launcher.

The rockets had been brought into the country by "international sympathisers", who also had rented a small holding close to Voortrekkerhoogte that the MK unit used as its base. On the day of the attack, he and his comrades had taken the weapons

from the smallholding to the firing point about 500m from the military base between Erasmus and Laudium. There was a police station less than 1km from the firing point and, as the MK soldiers were carrying the rockets and the launcher to the site, they were accosted by a policeman.

"He did not know what it (the weapon) was and he asked us what we were doing with those pipes," said Mr Mhisi. "We told him we had stolen them and were taking them to Atteridgeville. We just gave him R20 and he let us go."

After they launched the first rocket, the situation became "very serious", said Mr Mhisi. "While we were shooting, people came out to

watch and some of these people were sitting on the (getaway) car."

These residents apparently believed they were watching a SADF practice operation. Four of the five rockets fired damaged the base and injured a woman. Meanwhile, the driver of the getaway car, Philemon Malefo, realised he could not wait for the attack to finish and drove off. The other four hijacked a car in nearby Laudium.

"This Indian got into his car and we asked for a lift. He said he wasn't in a position to give us a lift. Barney got angry and he shot him, and this man fled into his house. And people started shooting at us."
All five MK soldiers got away after the mission

ARG 8/5/98

TRC exhumes bodies of MK four stripped and shot

Paulpietersburg - The bodies of four Umkhonto weSizwe (MK) operatives, who were paraded naked through the streets of Paulpietersburg before being executed in the early 1980s, were exhumed near Paulpietersburg in KwaZulu Natal on orders of the Truth and Reconciliation Commission.

The exhumed bodies will be reburied in the cadres' home towns in special ceremonies at the weekend, African Eye News Service reports

The commission's special investigations unit was, however, unable to exhume the body of a fifth MK cadre, Henry Nkosi, because his relatives could not be traced

Mr Nkosi and fellow MK operative Bheki Mchunu were killed by security police on December 8 1982 after a taxi driver taking them on a mission turned out to be a police informer

(M2)
TRC investigative unit spokesman Fanie Molapo said "Large numbers of MK cadres were murdered after being sold to the police by taxi drivers. The drivers, in fact, got so good at it that they became regular police informers."

The policeman and his son, who allegedly killed the two freedom fighters, have not applied for amnesty in spite of being publicly connected to the murders, said Mr Molapo.

Vusi Mbongwe, James Masango and Bafana Mahlombe were sent to search for Mr Nkosi and Mr Mchunu by MK commanders in Swaziland, but were also reported to police by taxi drivers in June 1983

They were arrested, stripped and marched through the local township to the police station where they were later shot at close range with automatic rifles and pistols, then buried naked in unmarked graves - Sapa

Former Umkhonto we Sizwe cadre admits to 31 bombings

Stephané Bothma

PRETORIA — A former member of Umkhonto we Sizwe's special operations Dolphin unit who yesterday accepted responsibility for 31 explosions in SA during the 1980s, said until his amnesty application, his involvement in the bombing spree had been known only to his commander and a fellow cadre

Mohammed Iqbal Shaik said he was responsible for a car bomb attack in Krugersdorp in March 1987 that left one civilian and two security force members dead and injured 20 people. Two blasts were planned — the first a limpet mine as a decoy to draw security personnel to the scene and the second a car bomb. However, the limpet mine failed to detonate.

He was under the command of Aboobaker Ismail and planned some of the attacks with his fellow Dolphin unit member, Mohammed Abdulhai Ismail, his commander's brother. Although some of his targets were iden-

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tified by his superiors, Shaik said he had been given permission to identify and attack his own targets.

Shaik said Heinrich Grosskopf, who was sought for a long time in connection with the Krugersdorp bomb, had nothing to do with the attack. Grosskopf was also named in media reports at the time as a suspect.

Shaik told the truth commission's amnesty committee he had also placed a limpet mine in the judges' chambers in Johannesburg, a limpet mine outside the Temple of Israel synagogue in Hillbrow, an explosive device at the Anglo American building and the Chamber of Mines building in Marshalltown, a limpet mine at the AECI offices in the Carlton Centre and also outside the Southern Cross Fund offices in Rissik Street.

He said the attack on the synagogue coincided with a scheduled visit by then State President Marais Viljoen, but that the SA government's close military and other co-operation with Israel had also

prompted it. Anglo, AECI and the Chamber of Mines were targeted because of labour disputes at the time.

Shaik said he had placed explosive devices outside the Johannesburg Magistrates Court, the Lawley substation, the Ciskei Consulate in the Carlton centre, Warmbaths, the Roodepoort Internal Affairs building, the Ciskei embassy in Pretoria, the Kroonstad National Party offices and the SA Defence Force building in Andersen Street.

Other attacks included the Rissik Street offices of foreign affairs and home affairs in Harrison Street, power stations, electric pylons and other strategic targets. All 31 attacks took place between 1982 and 1987.

"My actions at all times were politically motivated, carried out within the context of the conflicts of the past, aimed at political opponents and committed under the order of and with the full approval of my organisation, the African National Congress," Shaik said.

INSIDE

TRC must decide whether bombings were part of a terrorist campaign or a just war, writes Robert Brand



Pretoria bomb still touches a raw nerve

As details about the planning and execution of the ANC's bombing campaign during the 1980s unfolded before the Truth and Reconciliation Commission (TRC) this week, it became clear that explosions which shattered white South Africa's composure then still touch a raw nerve today

The Freedom Front mounted an exhibition of pictures of Church Street blast victims outside the amnesty venue in protest against what it called "terrorism". Inside, former MK operatives were defending themselves as "guerrillas" fighting a just war

Aboubaker Ismail, former head of the special operations unit of the ANC's armed wing Umkhonto we-Sizwe, is applying for amnesty for 13 attacks, including the Church Street bomb blast

At the same time, will remember the evacuation drills, the anti-bomb precautions, the pep talks by police public relations officers which followed

But it also dealt a severe blow to the ANC's image overseas and, for an organisation dependent on the goodwill of other countries for its very existence, it became a liability

In countless interviews for years after the explosion, then ANC president Oliver Tambo had to defend and justify Church Street, while international opponents of sanctions and isolation of the apartheid state used it as ammunition to denigrate the ANC as a terrorist movement

That, perhaps, provides the clue why the ANC never again launched attacks calculated to result in huge

in accordance with the policies of the ANC when they planned and executed the Church Street attack

Although ANC policy never allowed striking at purely civilian or "soft" targets, as the organisation made clear in its two submissions to the TRC, the organisation gradually came to accept that civilians would be killed "in the cross-fire"

However, this change in policy was not formalised until the Kabwe conference of 1985

Tambo's explanation of the civilian casualties in the Church Street bomb, therefore, were based on justification in terms of the escalating struggle rather than stated policy

It was only after 1985 that the ANC formally accepted that "the risk of civilians being caught in the crossfire... could no longer be allowed to prevent urgently needed, all-round intensification of the

(P/S)
Done 8/5/98

RECOR

LINDSAY YOUNG

65

ANC's armed wing Umkhonto we-Sizwe, is applying for amnesty for 13 attacks, including the Church Street bomb blast.

Another applicant was Mohamed Iqbal Shaik, arguably MK's most successful operative, who carried out 31 attacks between 1980 and 1988, including the blast at the Krugersdorp Magistrates' Court, in which three people died.

The Church Street bomb was the first attack of its type planned and executed by the ANC, and nothing like it occurred again.

As Ismail pointed out, it would have been easy to place car bombs in public places, with the certainty of civilian casualties, but the ANC did not.

There were, of course, the Magoo's Bar bomb, the Amanzimtoti shopping centre blast, and the Krugersdorp Magistrates' Court bomb, but each of these was an aberration in some way. Magoo's Bar was not exactly the target envisaged by MK's planners, the Amanzimtoti bomb was a crime of passion by an angry young man in clear contravention of ANC policy, the Krugersdorp bomb hurt civilians because of a technical hitch. Church Street was different, because, although the bomb also exploded prematurely, that did not materially affect the result.

The intention was to kill as many members of the military as possible, the certain knowledge that civilians would also perish was not regarded as sufficient cause to abandon the operation.

As an act of propaganda, Church Street was in one sense very successful, no other incident brought home to whites as clearly that the country was at war, and that the war was not only confined to the black townships.

It is the one act of violence perpetrated by the ANC which is indelibly fixed in the mind of every white South African old enough to have understood what had happened at the time.

It plunged white South Africa into a war psychosis fuelled by fear: those who, like me, were at school at

66

It plunged white South Africa into a war psychosis fuelled by fear

99

casualties, including civilians. That Church Street was a military target cannot be disputed: the bomb was placed and timed to explode outside the South African Air Force headquarters at a time when uniformed personnel would be leaving the building to take their buses home.

"The objective was to strike at military personnel in uniform. We did not target civilians," Ismail insisted before the amnesty committee. The question which the amnesty committee will have to answer is one of proportionality: whether the concomitant killing of civilians, which, Ismail confessed, was foreseen, was justified in terms of the broader political objective.

The objective, Ismail said, was to strike fear into the hearts of white South Africans by carrying out "a highly visible attack against large numbers of military personnel in uniform so that the security forces could not hide it".

It was also, he said, to show black South Africans that MK had the capability to strike at the very heart of white power.

Ismail said the inevitability of civilian deaths was appreciated, both by him in planning the attack, and by Joe Slovo and Tambo in authorising it. Quoting Tambo, Ismail explained: "The policies of the ANC were that we could not for the sake of a few civilians be prevented from striking at apartheid, at state power."

Thus raises the question whether Ismail and his comrades were acting

in terms of satisfying the provisions of the amnesty legislation, Ismail need not have sleepless nights about this.

So only the question of proportionality remains, and that, as amnesty panel chairman Mr Justice Selwyn Miller pointed out, cannot be decided purely by numbers. "We can't say more than 50% or less than 50% of the injured were civilians and decide on that basis."

It is an emotive question, as the Freedom Front's demonstration at the start of the hearing, with its gory exhibition of pictures from the aftermath of the blast, showed.

One man's terrorist is another's freedom fighter.

"We were not terrorists. The main objective of terrorism is to kill civilians. Guerrilla attacks are not aimed at civilians," said Shaik.

Louis Visser SC, the advocate representing three people injured in the Church Street blast, disagreed.

It was clearly a "soft military target", and the victims were overwhelmingly civilian.

Said Ismail: "The ANC has never been callous in its struggle. We never set out deliberately to attack civilian targets. We followed the political objectives of the ANC in the course of a just struggle."

Perhaps the last word should go to the cold statistics. Ismail and Shaik between them planned and executed more than 50 operations over a period of about eight years, in the majority of them, there were no casualties, and only three resulted in civilian deaths.

"Terrorist campaign? Just war? The amnesty committee will have to decide."



Coming clean . Abubaker Ismail (above) and Mohamed Iqbal Shaik planned and executed more than 50 operations in eight years.

MK pair slept at police station while planning Sasol 2 attack

By ROBB NORTHEY

An Umkhonto weSizwe operative said he had stayed at a nearby police station during the reconnaissance and attack on the Sasol 2 refinery at Secunda in 1980.

Sipho Matthews Thobela told the TRC amnesty committee in Pretoria yesterday he had been sent in to reconnoitre the refinery.

He is applying for amnesty for the attack on Republic Day in 1980. He and a fellow cadre had stayed at the hostel and police station near the refinery during the two weeks

that they spent scouting the area.

Those police were "very kind to us", he said when asked to explain why he had stayed at the station.

Because Sasol was a national key point, there was a police station near the hostel. When a stranger went to stay at the hostel, you had to report to the police and show your identity book.

He said they sometimes slept at the police station. After returning to Mozambique and reporting to Aboobaker Ismail, the commander of MK's special operations unit, it was decided to go

ahead with the attack.

Thobela was in charge of the four-man team which attacked the refinery at night. The team had done a final reconnoitre the night before to make sure of the shifts being worked. "We couldn't affect our own brothers who were working there," he explained.

Each member of the team had carried two limpet mines, but they had planted only seven after cutting through the wire fence and reaching the target. There was a mistake when one of the mines was lost nearby. **SAR 9/5/98**

Matthews said that after returning safely to Mozambique he was wounded during an attack on ANC houses, known as the Matola raid, on January 30 1981 and had not been fit for operational duty again.

It was his opinion that the attackers in the Matola raid were mercenaries wearing swastika insignia, and not members of the former SA Defence Force.

"The mercenaries spoke nice English - pure British. I could tell the difference between a Boer and an Englishman. They even shot up the meat in the fridge." **(252)**

Judgment means sex between gay men officially decriminalised

By CATHY POWERS

Sex between gay men was decriminalised in the Johannesburg High Court yesterday.

In a written judgment, Mr Justice Jonathan Heber declared the common-law offence of sodomy and the common-law offence of commission of an unnatural sexual act inconsistent with the constitution.

He said the offences criminalised acts that, if committed by women or between men and women, would not constitute an offence

Conspicuously absent yesterday were the outrageously dressed, drag queens who last year brought the court to a standstill during the National Coalition for Gay and Lesbian Equality's application to decriminalise sodomy.

The judgment merely a formality since the constitution states that people may not be discriminated against on the basis of sexual orientation.

In its application last year the coalition argued that sodomy was put on a level with the high-

est crimes against the state and a person - treason and murder.

In his judgment, Judge Heber said: "Constitutionally we have reached a stage of maturity in which recognition of the dignity and innate worth of every member of society is not a matter of reluctant concession but is one of easy acceptance."

Religious attitudes and popular opinion "cannot constitute a justification for the continued operation of the crime of sodomy in the face of the explicit

constitutional guarantees".

He noted: "The new constitutional dispensation in South Africa was preceded by a softening in attitudes towards deviations from the heterosexual norm, which was reflected both in academic writing and in the judgments of the courts."

"All of South Africa's major political parties supported inclusion of the equality provisions in the Bill of Rights as protections against discrimination on the grounds of sexual orientation." (247)

From 9/6/98

Judge sends blanket amnesty for 37 top ANC members back for

By ASHLEY SMITH

The Cape High Court has set aside the controversial "blanket amnesties" granted to 37 top ANC members, including Deputy President Thabo Mbeki, Justice Minister Dullah Omar and Foreign Affairs Minister Alfred Nzo.

This follows the ANC's decision to withdraw its opposition to the Truth and Reconciliation Commission's application. The amnesty applications will now be sent back to the TRC's amnesty committee for review.

TRC chairman Archbishop Desmond Tutu, looking upbeat and sporting a smile, expressed his relief after the ruling yesterday.

The National Party has withdrawn a similar application. Tutu said the NP had tried to "steal a march on the TRC" by bringing an application to have the 37 amnesties set aside.

"This (setting aside the amnesties) was what the TRC wanted all along," the archbishop said.

The amnesties, granted in November last year, unleashed a tirade of criticism across the political spectrum because the applicants had not been required to make a full public disclosure about why they were seeking amnesty.

Other senior members of the ANC who are part of the group are

Deputy Tourism and Environment Affairs Minister Peter Mokaba and Minister of Defence Joe Modise.

Mr Justice Johan Conradie ruled yesterday that the TRC's amnesty committee "consider afresh" their amnesty applications.

After protracted arguments between the NP and TRC legal counsel, it was agreed that the commission would foot the bill for the bulk of the legal costs.

The ruling followed an application by the TRC and two applications by the NP to have the amnesties declared null and void.

Before the court proceedings started yesterday, the NP withdrew its main application and a consolidation application, which it had brought to have the TRC's application heard together with the NP's.

The commission had intended to contest the consolidating application because of the perception it created that the NP and the TRC were joining forces against the 37 applicants.

Jan Heunis, counsel for the NP, said his client was withdrawing on condition that the amnesty committee also considered whether the "37 amnesty applications properly comply with the relevant requirements of the Promotion of National Unity and Reconciliation Act".

It had also come to the knowledge of the NP that the TRC had received an undertaking from the 37 applicants that they would not be contesting the setting aside of their amnesties.

He said the only reason why the NP had launched a consolidating order was because it had not been informed earlier of the negotiations between the TRC and the amnesty applicants.

Earlier, Peter Cockrell, who appeared for the TRC, argued that the NP had acted prematurely in launching a consolidation order.

He said that if the TRC and the NP applications had been heard together, it would have created the public perception that the two groups were combining forces.

REVIEW

STAN 9/15/98

Cockrell added that it was a widely held belief that the NP's decision to contest the amnesties was in fact a direct confrontation with the ANC.

Tutu, who emerged from the court building shortly after the ruling, said he was happy with the court's decision.

"We did not have the legal capacity to review the amnesty committee's decision. In the case of amnesties they are autonomous and our only route was to court."

He said the TRC had not wanted to waste taxpayers' money and had therefore negotiated with the amnesty applicants not to oppose the reviewing of their applications.

Counting the cost of SA's bail system

Awaiting-trial prisoners 'should not be behind bars'

JACKIE CAMERON

He's 17 and his father won't pay the R500 bail to get him out of Pretoria Local prison. His six-month stay in jail has already cost the taxpayer more than R16 000, and he hasn't even pleaded to the charges against him in court.

The teenager is among the thousands of unsentenced prisoners who are clogging jails nationwide because they are unable to pay their bail.

The cost to South Africa's prison system is staggering. Gauteng spends more than R5-million a month to keep the awaiting-trial prisoners in jail, while the Western Cape spends R5,3-million a month.

The costs to the taxpayer of the failing justice system are rapidly mounting. The R1-billion spent on feeding and housing awaiting-trial prisoners in jails nationwide every year is enough to pay the annual salaries of the entire Western Cape or KwaZulu Natal police service.

More than one-third of the 15 500 awaiting-trial prisoners in Gauteng should not even be behind bars – the courts released them from custody

on small bail amounts – but they could not scrape together cash to get out of the system.

The prison population has increased by 50% over the last two years and seems set to continue growing. The subsequent overcrowding means that the constitutional right to human dignity is being flouted.

In an attempt to alleviate the conditions in many local jails, the SA Human Rights Commission (SAHRC) is to lobby the Department of Justice and judicial officers to review the cases of all unsentenced prisoners who have not been able to pay bail.

They are also poised to challenge the regulations that effectively give unsentenced prisoners fewer rights than sentenced ones, for example, unsentenced prisoners may only receive visitors on working days and they cannot study.

SAHRC commissioner Jody Kollapen said that the commission would appeal to judicial officers and the Justice Department "to either release on warning or reduce bail where appropriate in the case of people who have been unable to pay their bail."

AKS 9/5/98

"Bail amounts of R500 and less do not serve as a deterrent if someone wants to abscond. It's problematic to keep people in custody who, because of poverty, are unable to pay bail," he said.

More than 45 000 of the total 145 000 prison population are prisoners awaiting trial.

More than 15 500 of those awaiting trial are found in Gauteng prisons – and about 6 500 are behind bars because they cannot scrape together enough cash to pay the relatively small bail amounts.

"It costs R5-million per month just to pay for awaiting-trial prisoners in Gauteng who have been granted bail but haven't been able to pay."

"These people should not be behind bars, and taxpayers should not be having to pay for them," Mr Kollapen said.

"If you grant someone bail of R100, you may as well release the person on his or her own recognisance. It is financially and legally illogical to keep them behind bars. It's the poor who can't afford these bail amounts."

"We are not saying that all 6 500 prisoners in Gauteng who cannot pay bail should be set free. We are saying that there must be some sort

of judicial review. The courts should inquire why crime suspects have not paid bail.

"The prison system is falling apart. The buildings are not being maintained and toilets and showers are not working."

"The Correctional Services Department staff are demoralised, and cannot cope with the overcrowding."

"Prison heads say that planning is impossible because they receive no notification from courts about the number of prisoners who will be arriving at the end of each day."

Statistics released by the Department of Correctional Services reveal at least 1 100 unsentenced prisoners have been waiting behind bars for more than two years.

Most of these prisoners (1 063) are awaiting trial in the Western Cape, which indicates that the wheels of justice have turned more slowly in this province than any other.

Gauteng has the highest number of unsentenced prisoners, 15 541, followed by KwaZulu Natal, 7 826, and then the Eastern Cape, 5 238.

The Western Cape is next on the list with 4 979 unsentenced prisoners.

Operative camped at police station before assault on Sasol

An Umkhonto weSizwe special operations unit stayed at the local police station while reconnoitering the Sasol 2 plant at Secunda before attacking it with limpet mines in May 1980, MK cadre Spho Thobela has told a Truth Commission amnesty panel.

Mr Thobelo, one of a number of MK Special Operations members applying for amnesty for a series of attacks in the 1980s, explained that the members of his unit had pretended to be looking for work at the plant during their reconnaissance. Because Sasol

2 was a "key point", there was a police station next to the hostel where potential workers had to register and show their identity documents.

"We conducted reconnaissance for approximately two weeks. We stayed in the hostels in the area and on occasions at the police station," he said. "By so doing we were able to speak to a number of people, which enabled us to supplement what we were able to observe." He added: "Those police were very kind to us."

Mr Thobelo said that on the night of May 81 - Republic Day - his four-man team had cut through the fences and placed seven limpet mines. There should have been eight mines, he admitted. "There was a mistake somewhere when a mine was lost nearby." Their sabotage was successful and they returned to Swaziland undetected.

Another MK sabotage unit was successful, although a security guard had been wounded in their operation against Sasol 1, Mr Thobela said. "We were overwhelmed - we were excited to do such a big operation. We

heard that the fire was raging in both Sasols. We were highly encouraged and motivated to fight more."

Mr Thobela also told the amnesty panel that he had been wounded in a raid on MK houses in Maputo in January 1981. The raid, known as the Mutola Raid, in which at least five MK members had been killed, was carried out by mercenaries on behalf of the then SA Defence Force, Mr Thobela claimed.

Asked why he thought the attackers were mercenaries, he said they had been whites whose faces were blackened with boot polish, had worn helmets emblazoned with swastikas and inscriptions like "Kak - kak - kak" (Shit - shit - shit) and "Take me to hell". After killing the MK cadres, the attackers had reportedly cut off their ears, Mr Thobela said.

"This shows they were mercenaries, because they had to put the ears on the table (when they returned) to show how many they had shot," he said. Another reason why he believed the attackers had been mercenaries was because they had spoken in "pure British accents".

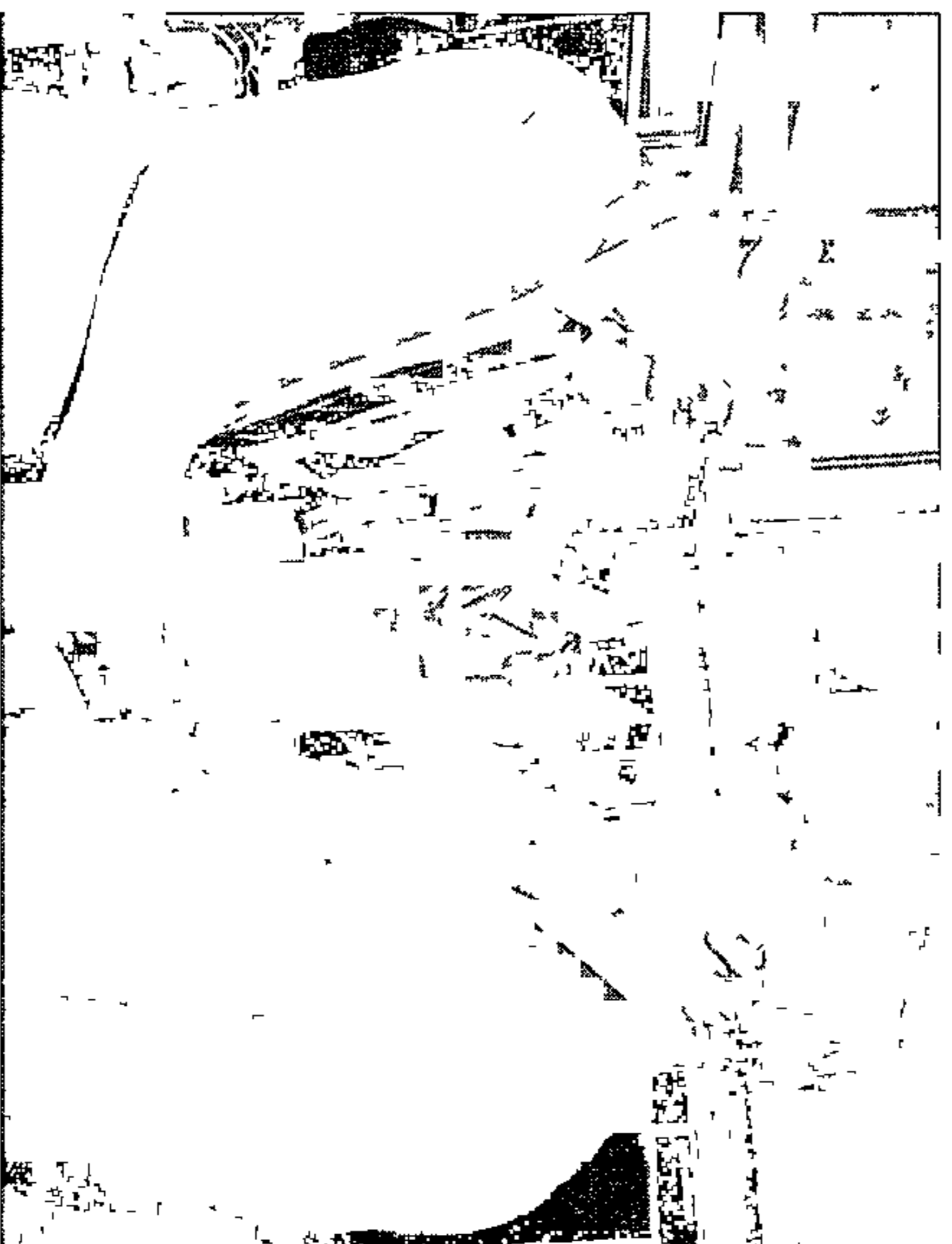
Amnesty panel hears of cadres who risked all to carry out deadly attacks. John Yeld reports from Pretoria

The human face of the MK bombers

For many white South Africans, the African National Congress cadres responsible for the "terrorist" bombing campaign that ripped through their cities in the 1980s were the epitome of evil. Vilified by apartheid politicians as devils incarnate, and feared and loathed by the conservative white electorate, the bombers nevertheless remained largely anonymous to the nation at large, apart from a couple of high-profile personalities like Umkhonto weSizwe (MK) commander Joe Slovo and ANC president and MK commander-in-chief Oliver Tambo.

That anonymity was lifted this week when some of them appeared before a Truth and Reconciliation Commission amnesty committee and, contrary to the image propagated by the former government, they proved to be only too human. They also provided an insight into the innermost workings of MK and, in particular, of what had driven some of these cadres into a life that was at best deadly dangerous and for many, simply deadly.

One of the top officers, Aboobaker Ismail - also known by his MK codename Rashid - put it like this to the amnesty panel: "I am proud of the bravery, discipline and selfless sacrifices of the cadres of (MK's) Special Operations who operated under my com-



OLD FOES Aboobaker Ismail shakes hands with blind bomb blast victim and former Air Force officer Neville Clarence

to do us kick the Boers in the balls," he would tell his commanders.

Mr Ismail commented: "This was classically a case of someone who joined the ANC because of his torture at the hands of police."

Mr Ismail himself was viciously assaulted, albeit briefly. "At the end of 1974 I was detained by the security police for distributing

commissar of Special Operations, in March 1984 he became overall commander and in July 1987 was promoted to chief of ordnance. Today, he holds the influential civilian post of chief of policy and planning in the Defence Department, and is also co-chairman of its transformation programme.

There was nothing boastful or times troubled as he repeatedly stated that he regretted the deaths of innocent citizens killed in the struggle for justice and freedom. "The ANC has never been callous in its struggle. We never set out deliberately to attack civilian targets," he said.

The most potent debunking of the erstwhile "devil" reputation occurred outside the hearing when Mr Ismail shook hands with Neville Clarence, a former SAAF officer blinded in the Church Street car-bomb blast. With tears in his eyes, he expressed sorrow for what had happened to Mr Clarence.

"This is very difficult," he said. Mr Clarence replied that he had never held any grudges. But the firm resolve of the MK cadres to end the injustice of apartheid was also apparent as Mr Ismail responded to a question about the ANC's policy decision to take the struggle into the white areas of South Africa.

"We did not deliberately attack white civilians. We did not take the easy way out," he said. "What the ANC intended was to make white people aware that the war would not only be waged in black areas. The ANC wanted the white areas also to be affected by it." "The whites should come out of their comfort zones... and have an understanding of the pain and suf-

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operated under my com-

commissar of Special Operations,

times troubled as he repeatedly

the struggle for justice and freedom

the ANC's policy decision to take

the hearing continues next week

SATURDAY ARGUS

A new game

LOUIS Luyt has finally lost any high ground he may have held in the protracted battle to prise him out of the South African Rugby Football Union president's seat.

His pathetic attempt to cling on to his position as his henchmen turned against him this week makes a mockery of his previous defence: that he was elected democratically and must be unseated democratically. By the normal tenets of democracy, a 22-15 vote against the leader of an organisation is sufficient grounds to unseat him, but Luyt turned to a technicality and kept his post. For a while, anyway.

A wiser man would have quit three weeks ago after winning the court case against the Govern-

ment's attempt to appoint a commission of inquiry into rugby's affairs. But whatever wisdom Luyt may possess is overwhelmed by his desire not to be seen to back down to anybody. For a neat summation of this attitude, one need look no further than Luyt's words to a breakfast function on Thursday: "I answer to no man, only to God".

Now it seems certain that Luyt will be forced to face his own worst nightmare being booted out. If he is to retain a shred of dignity, it would be prudent to quit now, at least dying in part by his own hand. And what now?

It is difficult in this tawdry affair to find any real heroes. The motives of the National Sports Council

appear to be driven more by a cocktail of revenge and political agenda than by principle.

Yesterday it emerged that the NSC was softening its position in the wake of the vote by various powerful rugby unions against Luyt. The timing of the unions' move against Luyt is also illustrative, they turned when the threat was directed at their wallets.

Perhaps President Mandela's dignified decision to give evidence in court paints him in a better light, but the grounds on which his Government chose to pursue rugby also appear to be spurious.

The sport itself has suffered immeasurably through this passage and, once Luyt goes, the war-ring parties have a responsibility.

If the NSC is going to emerge true to its word - that it is serving the greater South African good - it must show its *bona fides* by a constructive contribution towards rebuilding the game. Only then will its role to date be vindicated.

Rugby's new bosses will hopefully confront their own responsibilities towards developing a sport that is in step with South Africa post-1994.

The Government can also contribute by embracing rugby - and thus helping its development - rather than dismissing it as a bastion of old South Africa.

The winners would be rugby-loving South Africans - and all those who believe that sport has a role to play in reconciliation.

Quotes



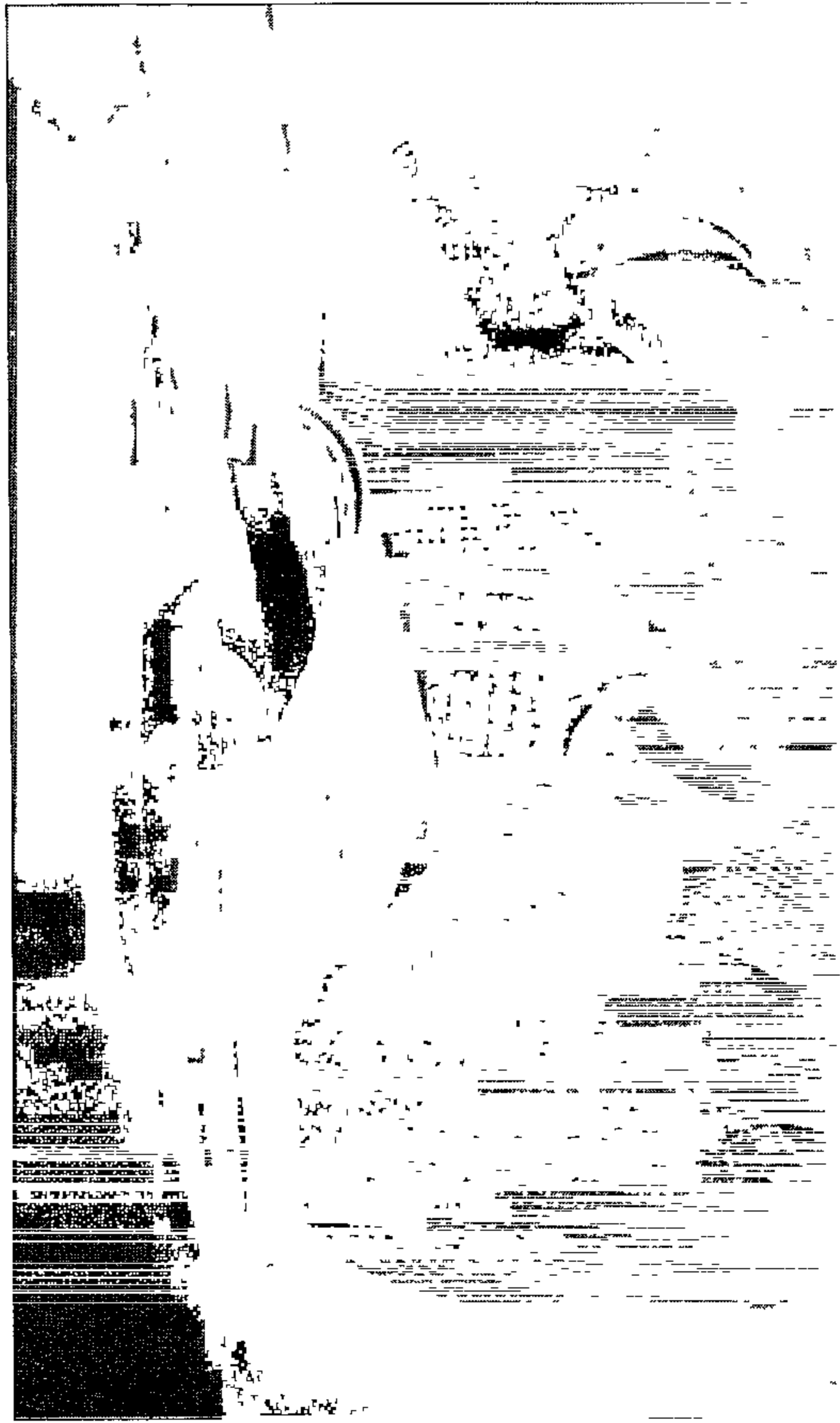
PACHYDERM (pæ'kidzɪm) (n.)
large, thickskinned mammal



**NEW LETTER
JOE**



ABOBAKER ISMAEL: We took up arms to defeat apartheid - we make no apology for this



during Mr Ismail's testimony, particularly when advocate Louis Visser SC, appearing for some of the bomb attack victims, suggested that car-bomb attacks were a cowardly way of fighting a war and were nothing more than terrorism.

The apartheid government's attitude had been that Africans were not civilians when they were shot by security forces, Mr Ismail snapped in reply. "Terrorism is when those state forces went and struck at the children in Soweto."

In the coming weeks, the amnesty panel will deliberate whether the Special Operations cadres were acting with a justifiable political motive and whether their bombing campaign was proportional to their political objective - and hence whether they qualify for amnesty. Ponder Mr Ismail's opening remarks to the panel: "Not one of the operation would have taken place without a democratic state. We took up arms to defeat apartheid and to replace it with a free and democratic South Africa - we make no apology for this."

tions which he and his cadres had carried out, and which resulted in at least 25 deaths, several hundred injuries and severe damage to installations and state property.

These included attacks on the Sasol 1 and 2 and Natref refineries in May and June 1980, the rocket attack on the South African Defence Force's Voortrekker-hoogte headquarters in August 1981, the car-bomb attack on the headquarters of the South African Air Force in Church Street, central Pretoria, in May 1983, in which 19 people died and more than 200 were injured. It also included two limpet mine attacks in August 1984 - one on the security police's Soweto East branch in Roodepoort, in which seven people were injured, and the other on the railway which seven people were injured, and the car-bomb attack on the Krugersdorp Magistrate's Court and police station complex in March 1988, in which three people died and 20 were injured.

Mr Ismail's expression was somesaid: "I was severely beaten, even though it only lasted for a few hours. I came to the conclusion that I had to do much more than I was doing and I decided to go for military training."

"The Soweto uprising in 1976, the brutal response of the state to innocent student protest and the threat of imminent arrest led me to leave the country in July 12 1976."

Earlier in his life, his emerging political consciousness had been shaped by the injustice of the society so visible around him.

"During high school, while living in Vrededorp, we travelled on a daily basis to school in Lenasia," Mr Ismail said. "This had a profound effect on me because we passed through Soweto on our way to school. I looked at the match-box houses and asked myself why it was that people were forced to live in such conditions."

After going into exile and receiving military training in the then East Germany, Mr Ismail rose swiftly through the MK ranks. In December 1979 he was appointed

in the pursuit of freedom for all in South Africa. They worked in one of the most dangerous and difficult arenas of struggle for a nonracial and democratic South Africa.

"They were prepared to work under conditions in which, if captured or abducted, they faced the possibility of summary execution - whether they surrendered or not, being tortured to death, or intense pressure to become collaborators or (else) be murdered. They faced hanging or lengthy prison sentences should they come to trial."

So why did these MK men take such risks? For some, it was a matter of personal vengeance, and the former apartheid security police have the dubious honour of having directly created some of their most bitter opponents.

One such MK cadre in the Special Operations unit went by the code-name of Hotstuff. Mr Ismail told the amnesty panel. During interrogation by the security police, Hotstuff was tortured with electric shocks to his genitals. After that, he was determined to get even. "All I want

Gays celebrate with 'Boerseuns' at Angels

AAG 9/5/98

ANDREA WEISS

Cape Town's gay community is celebrating a landmark judgment in the Johannesburg High Court that ruled a wide range of laws against gay sex to be unconstitutional.

Exuberant supporters of the National Coalition for Gay and Lesbian Equality told Saturday Argus that they would be "party-ing at Angels (a Green Point gay club) with all the Boerseuns" (a reference to National Party leader Marthinus van Schalkwyk who recently denied he had sex with a man as he was a "Boerseun").

Clint Allen, Western Cape regional organiser of the the Gay and Lesbian Coalition, said "We call on all open-minded South Africans to celebrate our victory.

"It is a huge step forward for human rights generally and a huge step forward in the fight against other laws which still deny equality."

Yesterday, Judge Jonathan

(252)

Heher of the Johannesburg High Court ruled that the common law crimes of sodomy and section 20A of the Sexual Offences Act were unconstitutional.

He also ruled that the common-law crime of unnatural sex insofar as it criminalised sex between men was unconstitutional.

He said the inclusion of sodomy in schedules of the Criminal Procedure Act and the Security Officers' Act, also were unconstitutional.

Section 20A ruled that any act at a party calculated to stimulate sexual gratification between men was illegal.

The Johannesburg judgment means that the Constitutional Court will be called upon to abolish the unconstitutional anti-gay legislation remaining on the South African statute books.

The coalition said the Mr Justice Heher's ruling was one of which "every South African, irrespective of their sexual orientation, can be proud".

High Court sets aside 37 ANC 'blanket' amnesties

ARG 9/5/98 (252)

ASHLEY SMITH

The Cape High Court has set aside the controversial "blanket amnesties" granted to 37 top African National Congress members, including Deputy President Thabo Mbeki, Justice Minister Dullah Omar and Foreign Affairs Minister Alfred Nzo.

This follows the ANC's decision to withdraw its opposition to the Truth and Reconciliation Commission's application to have the amnesties set aside.

Truth commission chairman Archbishop Desmond Tutu expressed his relief after the ruling yesterday.

The National Party withdrew a similar court application.

Archbishop Tutu said the NP had tried to "steal a march on the truth commission" by bringing an application to have the 37 amnesties set aside.

"This (setting aside the amnesties) was what the truth commission wanted all along," the archbishop said.

The amnesties, granted in November last year, unleashed a tirade of criticism across the political spectrum because the applicants had not been required to make a full public disclosure about why they were seeking amnesty.

Mr Justice Johan Conradie ruled yesterday that the truth commission's Amnesty Committee would have to consider the 37 applications "afresh".



Truth and Reconciliation Commission investigator Johannes Pule Molma (left) and Free State correctional services media liaison officer Menzi Mnwebe (right) brief Sowetan's Pamela Dube and Rex Pule at the alleged secret grave in Bloemfontein on Friday. The TRC was unsuccessful in their diggings last week and hope to continue investigations this week. PIC PAT SEBOKO

TRC probe of George Fivaz continues ⁽²⁵²⁾

Sowetan 11/5/98

By Pamela Dube and Mpikeleni Duma

THE TRUTH and Reconciliation Commission is expected to continue investigations this week into allegations by two Bloemfontein prisoners that Police Commissioner George Fivaz was involved in multiple murders in the Free State and Lesotho.

Two long-term prisoners at Grootvlei Maximum Prison, Andries "Tamati" Nchake and Joseph Tota Mosia, have alleged that Fivaz's operations in the Free State in the 1970s involved planting drugs and ammunition on innocent people.

Nchake alleged that on occasion Fivaz ordered and took part in the murder of suspects - such the murder of known dagga smuggler Dikaparo Litheko in 1978.

Nchake alleged that after several failed attempts to plant dagga and guns on Litheko, Fivaz led a police squad which killed Litheko at a roadblock in Bloemfontein and placed 10 bags of dagga in his car.

From 1981, the two alleged, Fivaz started sending them on operations to spy and gather information on political exiles, including the late South African Communist Party leader Mr Chris Hanu and former Azanian Peoples Liberation

Army commander Mr Letlapa Mphahlela.

Nchake alleged that the South African Defence Force used his information to carry out the 1982 Lesotho raid which claimed the lives of 15 anti-apartheid exiles, while Mosia claimed he was involved in the Odendaalsrus massacre in 1990.

Fivaz has refuted the allegations by the two prisoners, saying he never killed anyone during the apartheid era.

Last week TRC investigators took Nchake and Mosia to suburbs of Ladybrand and Bloemfontein to dig in places where the two alleged that activists' corpses were buried. The TRC found no human remains.

High on drugs

However, Nchake and Mosia insisted the TRC operations were unsuccessful because the crimes were committed more than 15 years ago.

While they could identify the area, Mosia said, the difficulty was that the burials were done at night and at that time they were "high on drugs".

Both alleged they were given cocaine to sniff and sometimes drank liquor before being sent to either bury weapons or bodies.

'I'm not a monster' - Buthelezi

By Khathu Mamalla

IN an apparent attempt to project the Inkatha Freedom Party as a truly national organisation, the IFP held a rally at Monsterlos Stadium near Groblersdal in Northern Province yesterday.

IFP president Chief Mangosuthu Buthelezi delivered a long speech in isiZulu to a crowd of about 300 people in which he appealed for support for his party, saying it was the only party that could be trusted.

"We have come here to win over the trust of the people of Northern Province and to show you that the IFP is the party you can trust because your trust is our honour which binds us and gives us strength to move on the uphill path ahead."

"We have come to earn your trust. We believe that trust is not bought on credit but needs to be paid for with hard-earned political cash. We are here to show you that we can earn that trust," said Buthelezi.

Attacking certain sections of the media for what he termed a campaign to discredit his party and demonise him, Buthelezi said "This campaign was so bad that when we all ended up in Parliament, many African National Congress (ANC) members of parliament came to me expressing their wonder that I was not the monster they thought I was."

"As you can see I do not have horns and tail. Many people in the ANC realised that I and the IFP were fundamentally different from the propaganda and the campaign of vilification portrayed by our opponents through the media that they began to speculate about a possible merger between the ANC and the IFP," said Buthelezi.

NP blasts TRC over legal costs, amnesties

Oct 11/5/98

(252)

The National Party yesterday criticised what it called an unprecedented step by the Truth and Reconciliation Commission to agree to pay the legal costs of 37 top African National Congress members whose blanket amnesties were nullified by the Cape Town High Court.

NP leader Marthinus van Schalkwyk said the private agreement was contrary to normal legal practice

"It is indefensible that the taxpayer must foot the bill. If the court had not decided that the TRC should pay the NP's legal costs (in the application to set aside the blanket amnesties), there would not have been such an agreement

between the TRC and the NP.

"The taxpayer must now foot the bill for the legal costs of the NP, the TRC itself - which conducted a hasty and substandard legal action - and the ANC, who opposed and lost the case."

Van Schalkwyk said the NP had already tabled urgent questions in Parliament about the TRC's move.

He said the NP's victory in the case was a victory for the principle of equality before the law, and that the ruling by the High Court on the matter was another serious blow to the TRC's credibility

The fact that the High Court had set aside the blan-

ket amnesties meant that the TRC had disregarded its own enabling act and was "irrefutable evidence" of the TRC's partiality, Van Schalkwyk said.

"The debate about the Truth and Reconciliation Commission's ANC sentiments is now no longer a theoretical one, but is vindicated by this decision of the court.

"It is unthinkable that the TRC can now merely proceed as if nothing has happened. Urgent decisions are now required about the correct finalisation of the TRC's activities, which have not brought the reconciliation which was originally envisaged," he said - Sapa

Call for managers who applied for top SABC job to quit

Pule Molebale

THE search for an SA Broadcasting Corporation (SABC) CE to replace Zwelakhe Sisulu would resume next month after the corporation's board failed to find a suitable successor for Sisulu last week, sources said.

However, a storm is gaining momentum within the corporation, with some executives intimating that top internal managers, who applied for the position and failed to clinch the job, should quit.

"We believe the managers would not recognise the new chief and if they stayed on they would be disruptive...."

They must give the appointed chief executive space," one source said.

The corporation's board, which conducted interviews on Monday, failed to announce the corporation's new CE as planned on Wednesday "because it didn't deem the present applicants suitable for the position".

The board was due to meet next month to decide on Sisulu's successor and would assess the chances of the applicants both from within and outside the corporation. Sisulu leaves in September, to join black empowerment group New Africa Investments (Nail) as executive deputy chairman.

Some of the managers believed to

have applied for the position include:

Barney Mkhomboti, radio news editor-in-chief; Hawu Mbatha, radio division head; Govan Reddy, deputy group chief executive; Ntombi Langa-Royds, CE human resources; Ronnie Bracks, SABC legal adviser and Mandla Langa, programme director.

SABC group communication manager Enoch Sithole denied applying for the job.

Other applicants, including Reddy, refused to comment on the matter. Reddy, speaking through his secretary, said he felt uncomfortable commenting as he was a candidate.

Other candidates were philosopher

cal, with one saying "SA is a peculiar country where sometimes what seems to be is not actually what it may be".

Board chairman Paulus Zulu expressed satisfaction with the progress of the process so far. "We are not through yet," he said.

He said some of the approximately eight short-listed candidates could not be interviewed because they were out of the country, while some short-listed candidates had not indicated their availability.

Zulu refused to give the schedule for the next interviewing session as "we are still negotiating the date. I am not a speculative person," he said.

Anglo's Gush dies after a long illness

PETER Gush, who was deputy chairman of Anglo American Corporation and a director of De Beers/Centenary and Minorco died in Johannesburg on Friday after a long illness, De Beers chairman Nicky Oppenheimer said at the weekend.

Oppenheimer said Gush had a distinguished career in the Anglo group, which spanned 40 years of his life.

Gush was born on March 6 1938, and was educated at Grey College in

and economics.

He served on the executive committee of SA's Chamber of Mines for seven years and after two terms as vice-president of the chamber, was elected president for 1986/87.

Gush was an executive director of the World Gold Council in Geneva and chairman of the SA Council of the International Chamber of Commerce. He was a member of the board of directors of the University of the Witwatersrand

Commission criticised for paying ANC's costs

THE National Party (NP) yesterday criticised what it called an unprecedented step by the truth commission in agreeing to pay the legal costs of 37 members of the African National Congress (ANC) whose blanket amnesties were nullified by the Cape

Town High Court

NP leader Marthinus van Schalkwyk said: "It is indefensible that the taxpayer must foot the bill. If the court had not decided that the commission should pay the NP's legal costs (in the application to set aside the blanket amnesties) there

would not have been such an agreement between the commission and the NP

The taxpayer must now foot the bill for the legal costs of the NP, the truth commission, and the ANC, who opposed and lost the case," he said. — Sapa.

Arrest foiled plot to bomb city refinery, says MK man

ARG 11/5/98 (252)

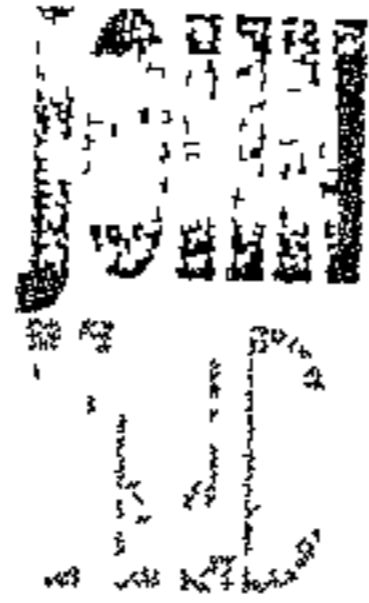
Pretoria - Umkhonto weSizwe (MK) soldiers wanted to blow up the Caltex oil refinery at Milnerton so that Nelson Mandela and other leaders imprisoned on Robben Island could "see the flames", a Truth Commission amnesty panel heard here today.

This was testimony by David Moisi, who was one of a four-man team from MK's special operations unit that successfully attacked the Sasol 2 refinery at Secunda with seven limpet mines on May 31, 1980, causing a big fire and severe damage.

Before a small audience that included Defence Minister Joe Modise, Mr Moisi said he had been arrested while infiltrating South Africa from Swaziland in October 1980, on the way to reconnoitre the Caltex refinery for a possible attack.

"Because of the flames at Sasol, we thought we would attack Caltex. We wanted our leadership on Robben Island to actually see the flames," he said.

But his involvement as an MK soldier had come to "an abrupt end" when he and



ON THE TRUTH COMMISSION

his colleagues were betrayed by the driver of a taxi they boarded at Malelane after slipping across the border.

Strangers to the area were easily identified by local residents such as the taxi driver, he explained. The driver, a police informer, told his passengers that he had to tell his "father" that he was taking his passengers out of the area.

"Little did we know that his father was the police," said Mr Moisi. "He drove us to

To page 3

MK 'plotted to blast Milnerton refinery'

(252) ARG 11/5/98

From page 1

the Malelane police station. We were held by the security police, interrogated and tortured to obtain confessions from us that we were MK cadres."

After six months in custody, Mr Moisi was charged. He was sentenced in the Pretoria Supreme Court to death for high treason.

After two years on death row, his sentence was commuted to life imprisonment in 1983. In 1991, he was released in terms of the Pretoria Minute, signed by the African National Congress and the National Party government of Mr FW de Klerk.

"I have, through my incarceration, treatment at the hands of the security police and the time that I served on death row, already 'paid

my dues', for lack of a better word, in the armed struggle," said Mr Moisi.

"I wish to be granted amnesty so that I may have my name permanently expunged from South Africa's criminal records."

He said he had started his political career while at school in Orlando West, Soweto, as a member of the SA Students Movement, and led the first rent boycott in the Vaal Triangle.

Shoot order was excessive, ex-Shell House chief admits

Star 12/5/98
By SIMON ZWANE

Gary Kruser, head of the SAPS's VIP protection unit, admitted for the first time yesterday that the bounds of self-defence were exceeded when marching Inkatha Freedom Party members were shot and killed outside the ANC national headquarters on March 28 1994

Kruser is the former deputy head of the ANC's intelligence and security unit, and the man who gave the order that the marchers be fired on.

Testifying in his amnesty application in Johannesburg, he admitted that the shooting which led to the so-called Shell House massacre may have been excessive, because some of those killed were shot in the back after they had turned away

"We are sorry that people died but I am convinced I had no option but to give the order," he said.

Kruser said he had initially urged ANC guards to restrain themselves but things changed when a bullet shattered a window close to where he was standing next to the building

"I gave an order to fire a

warning shot. This had an opposite effect as the crowd kept surging forward and the gunfire intensified." He then ordered that shots be fired directly at the crowd

Nine people were killed outside Shell House - eight from gunshot wounds and one from a stab wound.

A total of 56 people died that day as mayhem broke out in central Johannesburg and surrounding areas

Thirteen ANC guards have applied for amnesty in connection with the massacre and the killings which took place outside Lancet Hall, the ANC's Gauteng regional offices

The amnesty hearing, scheduled to last for two weeks, was disrupted temporarily when IFP members accused advocate George Bizos, representing the applicants, of dealing with issues that they felt were dealt with in last year's inquest into the killings

The application is being opposed by families of the victims and by survivors who claim there was no attack against the ANC and that the applicants had failed to show a political objective for their actions



Two officials of the Inkatha Freedom Party (extreme left and right) try to calm angry party followers at the Truth and Reconciliation Commission hearing over the Shell House killings at the Central Methodist Church in Johannesburg yesterday. PIC LEN KUMALO

IFP members disrupt Shell House hearing

(252) Sowetan 12/5/98

By Russel Molefe

THE Truth and Reconciliation Commission hearing into the Shell House killings was disrupted briefly yesterday when Inkatha Freedom Party supporters objected to the amnesty application of 13 African National Congress security guards and started shouting and hurling abuse.

The disruption at the Central Methodist Church in Johannesburg came when Advocate George Bizos for the ANC applicants was still making his submission and giving a summary of the events of March 28 1994.

Nine people were killed near Shell House that day when thousands of IFP supporters marched on the Johannesburg central business district to protest against the elections.

The 13 ANC security guards are applying for amnesty for the killings.

Shouting began

When Bizos referred to the alleged involvement of the IFP's Mr Themba Khoza in third force activities and two videos showing the attitude of the party's Mr Humphrey Ndlovu towards violence, the shouting and verbal abuse began.

IFP supporters, some of whom were injured on that day and are opposing the amnesty application, shouted and accused the amnesty committee of "hearing irrele-

vant issues".

"These matters have been dealt with in the past. Why say it now," they shouted.

This prompted committee chairman Judge Hassan Mall to briefly adjourn the proceedings, instructing lawyers representing the objectors to consult with their clients.

"I'm going to adjourn proceedings to enable you (the objectors' lawyers) to consult with their clients on whether they still have confidence in you."

"We are not prepared to continue the hearing in the presence of people disrupting the proceedings," Mall said.

Resumed after lunch

The proceedings resumed after lunch with the first applicant, Mr Gary Kruser, who is now a director in the National Protection Services, taking the stand.

Kruser said he was the deputy head of the ANC security department at the time of the shooting four years ago.

He was trained by British special forces and also received training in Zimbabwe "for the job I'm doing now", he said.

"I was also trained by Group Five of Britain in the protection of buildings."

"I think I've adequate training in doing the job," Kruser said.

He said the situation outside Shell House on that particular day was extremely tense.

Prisoners complain of assault

By Khangale Makhado

AN AWAITING-TRIAL prisoner at the Pretoria Local Prison is in a serious condition in the Kalafong Hospital, Atteridgeville, after he was allegedly assaulted by warders on Saturday.

No one knows what exactly happened but it is believed that the prisoner, John Eze (22), a Nigerian national, was attacked by warders.

Sowetan received further reports that two other prisoners sustained injuries after being attacked by warders.

They are John Mathe and Nelson Malaise, who allege that they were assaulted on Saturday morning by warders whose names are known to *Sowetan*.

Department of Correctional Services spokesman Mr Rudi Potgieter confirmed yesterday that Eze was taken to the hospital after the alleged attack.

Internal injuries

Potgieter said it appeared Eze, who is facing charges of housebreaking and theft, sustained internal injuries during the attack.

"We do not know the circumstances surrounding the incident and have asked the police for a criminal investigation," said Potgieter. "At the same time the department will investigate if it is necessary to take disciplinary action against the warders."

According to Potgieter, Mathe and Malaise will be taken to a doctor today. They will be given a chance to lay charges.

Potgieter said the department would not tolerate assaults on prisoners and will always refer all cases relating to such assaults to the police for the law to take its course.

Ex-operative tells why he took up arms

(252) Soweto 12/5/98

By Claire Keeton

AFRICAN National Congress (ANC) member Mr David Motshwane Moisi told the Truth and Reconciliation Commission he joined the organisation after watching the police shoot dead a fleeing schoolgirl in 1977 in Soweto

"I was left with the impression that the life of a black person was worthless from the point of view of the South African Police," Moisi told an amnesty panel in Pretoria yesterday

He was sentenced to death in 1981 for his part in sabotaging the Sasol 2 oil refinery. No lives were lost in the operation though massive damage was done to the plant

"At the centre of the Sasol opera-

tion was how best to avoid the loss of human life," Moisi said

Moisi and his fellow operatives planted limpet mines at Sasol 2 on May 31 1980, then Republic Day "We decided to send a clear message to the masses that the racist regime was not invincible," he said

Moisi spent two years on death row before his sentence was commuted to life in 1983. Ten years after his conviction he was released in terms of an accord between the ANC and the then South African government

Kroonstad-born Moisi was on a reconnaissance mission to the Caltex Refinery in Cape Town when he was betrayed by a police informer

"We wanted our leaders on Robben Island to see the flames of

the (Caltex) attack," he said

Moisi said he was acting under the command of the late Joe Slovo and fellow amnesty applicant Mr Aboobaker Ismail

Another applicant, Mr Colin de Sousa from Bonteheuwel in Cape Town, told the panel of his role in the Wits Command bomb blast, which killed one soldier and injured 68 others

He kept Wits Command under surveillance at the end of May 1987, and even entered the premises once wearing a South African Defence Force uniform

Defence Minister Mr Joe Modise was present at yesterday's hearing, which was adjourned until tomorrow because of the failure of one applicant to attend

Sasol plant attack date

(152)
'symbolic'
CT 12/5/98

PRETORIA: An uMkhonto weSizwe operative has described to the Truth and Reconciliation Commission how the Sasol 2 plant at Secunda was attacked on Republic Day in 1981 to add to the symbolic value of the attack.

"We could have attacked the target much earlier but Republic Day was decided on because the old regime normally displayed its military might on that day.

"We decided to send a clear message to the masses that the racist regime was not invincible," MK operative Mr David Motshwane Moisi told the TRC amnesty committee hearing here yesterday.

He said MK had also planned an attack on the Caltex oil refinery in Cape Town.

This was so that its leaders imprisoned on Robben Island could see the flames.

However, Moisi was arrested after entering South Africa on a reconnaissance trip to the refinery.

He said he took a taxi.

But the driver was a police informer who took him to a police station, where he was arrested.

Moisi was convicted and sentenced to death for treason.

But his sentence was later commuted and he was released in 1991 in terms of the Pretoria Minute.

"I have, through my incarceration, my treatment at the hands of the security police and the two years that I served on death row, already paid my dues for my part in the armed struggle," he said. —

Sapa



Gary Kruser, deputy head of security in the African National Congress's intelligence and security department at the time of the 1994 Shell House shootings, testifies before the truth commission's amnesty committee yesterday. Kruser is one of 13 ANC security staff who have applied for amnesty for the shootings

Picture TYRONE ARTHUR

ANC men may have used 'too much force' (252)

Pearl Sebolao 00 12/5/98

THE lawyer representing African National Congress (ANC) security officials applying for amnesty in connection with the 1994 Shell House shooting told a truth commission hearing yesterday that the officials might have used excessive force

George Bizos, SC, representing 12 of the 13 applicants, said his clients accepted that the shooting might have gone on for too long and there might have been misjudgment on their part

At least eight people died outside Shell House when security officials opened fire on a group of Inkatha Freedom Party (IFP) supporters who had marched on the ANC's headquarters

The applicants accepted also that their belief of what happened on the day might not be correct, Bizos said

Earlier in the day, Judge Hassan Mall adjourned proceedings when some of the victims and their relatives shouted and screamed at Bizos, disrupting the hearing. The group of about 50 people was frustrated that Bizos had dominated the hearing for the whole morning and was addressing matters already discussed at the inquest. Bizos was outlining the nature of evidence he intended to give to the amnesty committee in support of his clients' applications. The protest was triggered when he referred to an inflammatory speech made by IFP leader Humphrey Ndlovu at a hostel in Vosloorus on the East Rand, which Bizos said showed the IFP leader's attitude to violence

Gary Kruser, deputy head of security in the ANC's intelligence and security department at the time, told the commission he was pursuing a political objective when he gave an order to repel the marchers. Kruser, the first applicant, said his actions had ensured the 1994 election went ahead.

"I have no doubt in my mind that if the marchers had entered Shell House, ANC leaders would have been maimed and killed. If this had happened, the democratic election would not have taken place," he said

Kruser said he regretted that people had been killed, but was convinced he had no option but to give the order to repel the attackers

Lawyers for the victims and their families are opposing the amnesties on the grounds that the applicants did not disclose all the details of the incident and that there was no political motive for the shooting. The applicants had not disclosed also all the details about the "perceived attack on Shell House"

Amnesty applicant says he 'paid his dues'

Stefhané Bothma

of 9

PRETORIA — A special Umkhonto we Sizwe (MK) unit planned to blow up the Caltex refinery outside Cape Town in 1980 so that African National Congress (ANC) leaders incarcerated on Robben Island could see the flames, the truth commission's amnesty committee heard yesterday.

David Moisi, who applied for amnesty for his part in the May 1980 limpet mine attack on Sasol 2, was, however, arrested before his unit could strike at the target.

He was charged with high treason and sentenced to death. After spending two years on death row, his sentence was commuted to life imprisonment.

"I have, through my incarceration, treat-

ment at the hands of the security police and the time I served on death row, already paid my dues for my part in the armed struggle. I wish to be granted amnesty so that I may have my name expunged from the criminal records," Moisi told the committee.

After receiving military training in Angola and the German Democratic Republic in the late 1970s, Moisi joined MK's special operations under the command of the late Joe Slovo and under Aboobaker Ismail.

Moisi testified he was instructed to carry out an operation at Sasol II near Secunda. He was involved in the planning and implementation of the operation with four other members of his unit.

"On May 31 1980 we prepared ourselves by changing into uniforms used by Sasol

workers. We carried limpet mines that were secured onto metal flaps hidden under our clothes," he said.

Seven limpet mines were attached to rifles and a gasifier, which detonated about an hour after being placed.

The committee earlier heard that the four unit members had two limpet mines each, but that "we had lost one nearby".

Moisi is one of 10 former MK members testifying at special hearings into the ANC's armed wing.

They have applied for amnesty for a range of high-profile bombings in Gauteng and the Free State between 1980 and 1988, including the Church Street bombing in Pretoria, blasts at two Sasol plants, a car bomb at the Krugersdorp Magistrate's

(253)

PD 12/5/98

Court and an attack at Wits Command. About 20 people were killed and more than 350 injured in the spate of attacks.

Colin de Sousa told the committee he had done reconnaissance at Wits command during July 1987 after being requested to do so by an ANC member.

Wits command was attacked on July 30 by Hein Grosskopf, who, although he has applied for amnesty for the attack which left one dead, earlier said he would not testify before the amnesty committee.

De Sousa said he had only once before met Grosskopf, but that he did not know Grosskopf's true identity until recently, when he was shown a photograph by truth commission investigators.

The hearing continues tomorrow.

Ex-Bonteheuwel activist tells of MK bomb attack

Uniform used to access SADF target

JOHN YELD
ON THE TRUTH COMMISSION

Pretoria - Former Bonteheuwel activist Colin Mark de Souza told the Truth Commission he disguised himself as a soldier to check out Wits Command before it was attacked by Umkhonto weSizwe in 1987.

His report was used by MK cadre Hein Grosskopf to plan and carry out the attack in which a soldier was killed and 68 people injured.

Mr De Souza and Mr Grosskopf have applied for amnesty for their roles in the attack. But Mr Grosskopf, who lives in the United Kingdom, sent a fax to a Truth Commission amnesty panel last week

saying he would not attend the hearing here although he was willing to answer questions about the attack.

Yesterday, Mr De Souza told the amnesty panel he had been a member of the Bonteheuwel Military Wing, headed by Charlie Martins who was "commander of Unit C25" and a known MK cadre.

Towards the end of May 1987 Mr Martins asked him, his brother and two others whether they wanted to undergo military training by the ANC.

They were sent to Johannesburg where he was told to contact Ike Moeketsi at Khotso House, then headquarters of the SA Council of Churches.

He met Mr Moeketsi and another man whose name he

could not recall, but whom he now identified as Mr Grosskopf. Mr Moeketsi told him to conduct surveillance at Wits Command and note the placement of guards, the time of guard changes, and whether there were places where a package could be concealed along the perimeter fence, Mr De Souza said.

While doing this work, he and his brother had been given a subsistence allowance of R250 a fortnight, paid by the paymaster at Khotso House. Later, he had been given a defence force uniform and boots by Mr Moeketsi and told to enter Wits Command building for an internal reconnaissance.

"I was carrying my civilian clothes in a tog-bag. I presented

myself to the two guards on gate duty at Wits Command as a national serviceman requiring information from the personnel department, and under that false pretence I managed to gain entry to the building.

"I spent approximately 20 minutes inside Wits Command making observations."

Mr De Souza said he reported the information to Mr Moeketsi and handed back the uniform before being taken to a safe house. Immediately after the attack, they were sent back to Cape Town urgently as the security police were reportedly looking for them.

He was eventually picked up by the security police and questioned about the attack but released without being charged.

Modise amnesty poser

JOHN YELD ARG 12/5/98

Pretoria - Defence Minister Joe Modise, one of the 37 high-profile ANC members whose amnesties have been overturned, says he has not yet been told whether he will have to appear at an amnesty hearing or re-apply.

The 37 amnesties, including those of Mr Modise and president-elect Thabo Mbeki, were granted in controversial fashion by the Truth Commission's autonomous amnesty commit-

tee in December without a public hearing. They were overturned at the request of the commission on Friday.

Some of the 37 did not provide any details of what they were applying for amnesty for - one of the requirements in the Truth Commission's founding Act.

Asked yesterday whether he had been approached by the Truth Commission since Friday's court decision, Mr Modise said: "Not yet." He added the applicants would abide by any court decision.

Kruser 'sorry' for massacre

ARGUS CORRESPONDENT

Johannesburg - The head of the police VIP protection unit, Gary Kruser, has admitted for the first time that the bounds of self-defence were exceeded when marching Inkatha Freedom Party members were killed outside the African National Congress national headquarters on March 28 1994.

Testifying in his amnesty application in Johannesburg,

Mr Kruser - former deputy head of the ANC's intelligence and security unit who gave the order to fire on the marchers - also admitted that the shooting, which led to the Shell House massacre, might have been excessive and some of the victims were shot in the back while they had turned away from the building.

"We are sorry that people died on that day but until today I am convinced that I had no option but to give the order," he said.

ARG 12/5/98



Seeking amnesty ... Gary Kruser gives his evidence at the TRC hearings into the 1994 Shell House massacre.

Shell House chief still silent

Nov 13/5/98

(252)

Man who ordered guards to open fire fears they could be assassinated

By SIMON ZWANE

The ANC man who ordered the shooting of IFP supporters during the Shell House massacre withheld the names of the guards who took part in the shooting because he did not trust the police, he told the TRC yesterday.

Gary Kruser, who heads the police's VIP protection unit, told the TRC's amnesty committee in Johannesburg that he feared that the guards could be assassinated if their names were made known.

"I was not prepared, even though President Nelson Mandela had given assurances, to sacrifice my comrades," he said.

Kruser was deputy head of ANC intelligence and security at the time and is seeking amnesty for a shooting incident which resulted in the death of eight people outside Shell House (ANC headquarters) a month before the historic 1994 elections.

Twelve other ANC guards have also applied for amnesty in connection with the incident.

Kruser told the committee that the attitude of the police and the attorney-general's office under Klaus von Lieres und Wilkau was hostile towards the ANC at the time.

The information that was given to them by the ANC was

often leaked to the press, he said.

The killing of two ANC members after giving evidence at an inquest in KwaZulu Natal also influenced him to not divulge the names of those who had taken part in the shooting.

Kruser maintained throughout two days of intensive questioning that he believed the ANC building was under attack when he gave the order to shoot.

He conceded that the bullet that shattered a window, shortly before he gave the order, was a ricochet from AK-47 shots which had been fired by an ANC guard.

Legal representatives for the

survivors and victims of the shooting rejected Kruser's view that the ANC building was attacked, and said the ANC guards opened fire on the IFP marchers "out of deep hatred for the IFP".

Advocate Dannie Dorfling said the ANC's statement that they had information that the building was going to be attacked was made up after the event to justify the shooting.

He said he would argue at the end of the hearing that the ANC did not have such information before the incident.

Another applicant, Bethuel Mondli Zuma, is expected to give evidence when the hearing resumes today.

IFP march was 'just a decoy'⁽²⁵²⁾ TRC told

By Russel Molefe

THE Inkatha Freedom Party used their march in central Johannesburg on March 28 1994 as a decoy to attack Shell House, the Truth and Reconciliation Commission amnesty hearing was told yesterday

Former deputy head of the African National Congress' security and intelligence department, Mr Gary Kruser, said at the hearing at the Central Methodist Church in Johannesburg that the march by IFP supporters on that day was very different from other marches

"They were not accompanied by police and were causing mayhem in the city," Kruser said

Under cross-examination for the second day yesterday, Kruser said a large group of IFP supporters tried to attack Shell House in Plein Street. Intensive gunfire came from the crowd as it charged forward and a bullet shattered a window close to where he was standing in the building

"I had to make a decision in a split second I ordered the guards to open fire," he said, denying that the guards had fired on marchers without provocation

Nine people were killed outside Shell House. Several also died in and around Johannesburg as IFP supporters descended on the city on March 28 1994 to protest against the first democratic elections

Kruser and 12 other ANC guards are applying for amnesty for the death of nine people outside the ANC head office

Kruser said it was not only the bullet that hit the window which prompted him to order the guards to open fire on the marchers

Combination of factors

"It was a combination of factors that forced us to repel the attack (on Shell House). All the factors are vital and one cannot stand on its own without the other," he said

Responding to a suggestion by the victims' lawyer, Mr Danie Dorfling, that he deliberately lied at the inquest into the matter last year, Kruser said

"I didn't go there to lie but to give my recollection of events. I had a very good reason to withhold information because I was not prepared to expose my colleagues to the danger of being assassinated"

Applicant 'never doubted' shots came from crowd

Pearl Sebolao

THE former African National Congress (ANC) deputy security chief who gave the order to shoot at Inkatha Freedom Party (IFP) supporters outside Shell House in 1994 yesterday told the truth commission he never doubted that gunfire emanated from the crowd when he gave the order.

Gary Kruser, who is applying for amnesty in connection with the shooting, said during cross examination that he now accepted the ballistic evidence which showed shots did not come from the marchers, but it was his impression at the time that they came from the crowd.

Kruser and 12 other ANC security guards have applied for amnesty for their part in the shootings during a march by IFP supporters through central Johannesburg. Eight people were killed.

He also maintained there was no factual evidence which proved that the first shots on the day were fired by the ANC security guards. He stood by his evidence to the Goldstone commission and the judicial inquest into the shootings that there was an impending attack on Shell House. "I was there and I saw an attack," Kruser

said in reply to suggestions by the victims' lawyers the marchers were not attacking the ANC's headquarters.

Asked whether he agreed or disagreed with any of the findings at the inquest into the shootings, Kruser said he disagreed with many, mainly the assertion that information received by the ANC about the planned attack on its headquarters had been fabricated afterwards to make it fit in with what transpired. He insisted he had received intelligence information that the IFP would use the march as a decoy to attack the building and kill ANC leaders.

The former security chief, who was accused of not making full disclosure by lawyers acting for the victims, told the commission that during police investigations he had withheld the names of the guards he issued with firearms because he feared they would be exposed to assassinations. "I was not prepared, even though President Nelson Mandela had given the assurance that they would be protected, to sacrifice my comrades," he said.

Another reason he did not co-operate with the investigations was that the police were hostile towards them, altering statements and leaking information to the press



Judges Sandile Ngcobo, left and Hassan Mall at amnesty hearings in Johannesburg yesterday. Several ANC security officers are applying for amnesty for the 1994 Shell House shootings. Picture ROBERT BOTHA

FD 19/5/98

(252)

Courts should have 'wider jurisdiction'

Farouk Chothia

CAPE TOWN — The SA Law Commission proposed that the constitution be amended to pave the way for magistrate's courts to be given constitutional jurisdiction over certain cases because they were the primary means of access to justice for most South Africans.

The commission said in a discussion paper released in Cape Town yesterday that there was interactive growth between common law and constitutional law. Magistrate's courts should, therefore, have constitutional jurisdiction "appropriate to their position in the court structure of SA".

It proposed that constitutional jurisdiction be provided to magistrate's courts over common law and legisla-

tive areas encompassed in section 110 of the Magistrates Act.

Sections 170 and 172 of the constitution should be amended so that magistrate's courts and other courts could decide on any matter determined by Parliament through legislation. However, no court lower than the high court could rule on the conduct of the president, or the constitutional validity of legislation introduced nationally and at provincial level.

A full bench of the high court also had to confirm any order of constitutional invalidity made by lower courts, the commission said.

In a second discussion document released, the commission proposed that specific legislation be enacted to regulate the sharing of retirement fund

benefits between divorced couples

In the event of divorce, the spouse of a retirement fund member was entitled to obtain a proportionate share of accumulated pension benefits during the marriage. The retirement fund benefits should be payable to the spouse by way of a deferred pension when the benefits became payable.

Legislation should spell out the formulas for determining the share of the benefits for which a spouse qualified.

In another report, the commission proposed reform to legislation dealing with contracts between individuals, or between individuals and businesses.

The commission said it was common, for example, for a rural person to purchase furniture from a city store on standard prepaid hire-purchase terms

only to find out later that he had waived all his rights in relation to latent defects.

It was, therefore, necessary to draft legislation addressing "contractual unreasonableness, unconscionability and oppressiveness". However, the legislation should not cover, among others, contracts falling under the scope of the Labour Relations Act, Companies Act, Close Corporations Act and Bills of Exchange Act.

The commission also proposed the creation of an ombudsman's office which would ensure that standard contract terms complied with the requirements of contractual fairness. This would provide a remedy for ordinary consumers who could not seek redress from the courts.

Shell House: why guards not named

(252) ARG 13/5/98

ARGUS CORRESPONDENT

Johannesburg - The African National Congress man who ordered the shooting of Inkatha Freedom Party supporters during the Shell House massacre deliberately withheld the names of the guards who took part in the shooting.

The Truth and Reconciliation Commission was told this was because he did not trust the police.

Gary Kruser, who heads the SAPS VIP unit, yesterday told the amnesty committee here that he feared the guards could be assassinated if their names were made known

"I was not prepared, even although President Mandela had given assurances, to sacrifice my comrades," he said.

Mr Kruser was deputy head of ANC intelligence and security and is seeking amnesty for a shooting incident which resulted in the death of eight people outside Shell House - ANC headquarters - a month before the 1994 elections.

Twelve other guards have also applied for amnesty.

Mr Kruser told the committee the

attitude of the police and the attorney-general's office under Klaus von Lieres was hostile towards the ANC at the time

The killing of two ANC members after giving evidence at an inquest in the KwaZulu Natal also influenced him to not to divulge the names of those who took part in the shooting

Mr Kruser maintained he believed the ANC building was under attack when he gave the order to shoot.

However, he conceded that the bullet that shattered a window, shortly before he gave the order, was a ricochet from AK-47 shots fired by one of the ANC guards.

Legal representatives for the survivors and victims of the shooting rejected Mr Kruser's view that the ANC building was attacked and said the ANC guards opened fire on the IFP marchers "out of deep hatred"

Advocate D Dorfling said the ANC's statement that it had information that the building was going to be attacked was made after the event, to justify the shooting.

He said he would argue that the ANC did not have such information before the incident.

Premier's theft claim halts budget debate

ARGUS CORRESPONDENT

source, to the press. The documents

Church St blast not racially based – Ismail

(259)

By ROBB NORTHEY

Umkhonto weSizwe master bomber Aboobaker Ismail has vehemently denied suggestions that the Church Street bombing was a racially based attack

"Nothing could be further from the truth. No You are wrong," Ismail said at the Truth and Reconciliation Commission amnesty committee hearings into MK bombings yesterday.

He strongly denied a suggestion by advocate Louis Visser SC, appearing for some of the victims of the May 20 1983 blast which killed 21 people and injured 217 outside the SA Air Force headquarters, that MK had wanted to kill as many whites as possible

"The apartheid state was not prepared to sustain the loss of white life (and) soldiers. When it came to black soldiers, they were good cannon fodder," Ismail told the committee

"I am going to argue that the Church Street bombing could by no stretch of the imagination be considered a military target," Visser told Ismail

"People continue to argue that apartheid never existed," Ismail responded in an emotional speech

"We were hitting a military target, and the president of the

ANC had said we could attack it
"We were at war and the security forces were the ones that defended the apartheid state.

"They were in the frontline and were targeted (by us)," Ismail said.

One of the victims, Louis Jacobus Pretorius, told the committee he broke his back while leaving the building after the bomb exploded outside.

Descending the darkened stairwell, Pretorius, then a corporal, slipped in a pool of blood from another victim and broke his back

He underwent three operations but was subsequently declared medically unfit in 1993, and is currently unemployed

"As a human being I would like to object to the amnesty applications, but my Christian principles tell me I should not," Pretorius said

"Although it was relatively easy to forgive, it was extremely hard to forget," he said

"How am I supposed to forget when I live in pain every day?"

Pretorius said he was busy on the telephone when he heard the explosion. He added he did not believe the attack had been aimed at an exclusively military target

The hearing continues today.

Irate IFP members force amnesty hearing delay

Threats to former ANC guard as video of Shell House shooting aftermath raises tempers

By SIMON ZWANE

Angry IFP supporters, baying for the blood of a former ANC security guard, disrupted the TRC's hearing in Johannesburg yesterday.

"You traitor, you will be killed. You will never set your foot in KwaZulu Natal again, there will be no peace," the crowd shouted at Bethuel

Mondli Zuma, one of the 13 former ANC guards applying for amnesty in connection with the killing of eight IFP anti-election marchers outside Shell House in 1994.

The disruption came after a video showing the aftermath of the shooting outside Shell House on March 28 1994 was played. Angry women broke down and cried loudly as the video

showed the bodies of IFP members shot during the skirmish. David Sibuya, who was injured during the march, collapsed and appeared to suffer seizures.

Threats and insults against Zuma, a police captain attached to the VIP protection unit, were first made on Tuesday when it was indicated that he would be testifying. This prompted his legal rep-

resentatives, led by advocate George Bizos, to apply for an order yesterday preventing the publication of his picture in newspapers and television. The application was refused.

The outburst compelled amnesty committee chairman Mr Justice Hassan Mall to bring the hearing to an early adjournment. "It is our assumption that if we commence now, trouble may

continue outside this auditorium," Judge Mall said.

"It might result in some violence and we feel the chances of such violence will be reduced if we adjourn now and allow tempers to calm down."

Bizos said that although the disruption of an amnesty hearing might not be unique, he viewed the threats against Zuma in a serious light. "This is the first time in

which, in the presence of the police, dire threats of death are being made," he said.

Zuma had earlier told the committee that he might not have been justified in firing at the marchers when they had turned their backs and were fleeing. He maintained, however, that he was justified in repelling the attack the marchers had launched on the ANC building.

(252)
Star 14/5/98

We'll get you, ANC man warned

By Russel Molefe

INKATHA Freedom Party supporters again disrupted the Truth and Reconciliation Commission hearing in Johannesburg yesterday (252)

They were objecting to the amnesty application of 13 African National Congress security men involved in the Shell House killings

The IFP supporters threatened to kill a witness, Mr Bethuel Zuma, who they said was "a traitor because he shot at fellow Zulus"

Zuma earlier told the amnesty committee

at the Central Methodist Church that he received two death threats a day

Thirteen ANC security men, including Zuma, are applying for amnesty in connection with the killing of nine people who were part of a large group of IFP marchers who marched on Shell House on March 28 1994

They are seeking amnesty on the basis that "they might have exceeded the bounds of self-defence" when they repelled the attackers

During the viewing of video footage of the incident just after lunch, to refresh the memory of Mr Mahatma Singaram, one of the

amnesty seekers, more than 50 IFP supporters started shouting threats that they would kill Zuma

"Zuma you are a traitor You are going to die before this hearing is over We will get you in KwaZulu-Natal It's not our tradition to forgive," the IFP supporters shouted, rendering the continuation of the hearing impossible

The IFP supporters felt that Zuma, who earlier told the amnesty committee that he was a "traditional Zulu" and usually attends *mbizo*, should not have shot at fellow Zulus

Lawetan 14/5/98

Tough law aims to add punch to crime fight

ARG 14/5/98

Kahn welcomes new legislation

GLYNHIS UNDERHILL
SPECIAL WRITER

A person who knows he has Aids or the HIV virus and commits rape could now face life imprisonment, according to a tough new law.

The far-reaching legislation contained in the Criminal Law Amendment Act prescribes minimum sentences for various crimes, and came into effect this month.

Cape Attorney-General Frank Kahn yesterday hailed the legislation as an effort by the Government to curb crime and restore public confidence in the criminal justice system.

The legislation prescribes a sentence of life imprisonment for a rapist if the victim is a girl under the age of 16, or a physically disabled or mentally ill woman.

Murder when it is planned or premeditated will also result in a pre-

scribed sentence of imprisonment for life

If a law enforcement officer is murdered, the penalty will be life imprisonment.

This also applies to the murder of an officer of the National Intelligence Agency or the South African Secret Service or a member of the Department of Correctional Services.

The murder of a person who has given or was to give evidence on certain crimes or in criminal proceedings in court also carries life imprisonment as a penalty.

If the death of a person is caused by someone attempting or committing rape or robbery with aggravating circumstances, life imprisonment can be imposed.

Minimum sentences are also prescribed for drug trafficking offences. These include jail terms from 15 to 25 years, depending on whether the accused is a first, second or third-time

offender

The possession of an automatic or semi-automatic gun, explosive or armament also carries a prescribed sentence, similar to those for drug trafficking.

Mr Kahn said the Government was making a concerted effort to restore public confidence in the criminal justice system by prescribing minimum sentences for certain crimes.

The sentences would act as a real deterrent to criminals, he said.

The new legislation covered a much broader spectrum and sent out a strong message to criminals.

The legislation showed Parliament was serious in its fight against crime, Mr Kahn said.

Prescribed minimum sentences would be much more effective than the death sentence, which had applied only to a small percentage of cases involving violence, he said.

'Unsettling whites was aim of MK bomb plan'

DD 14/5/98
(252)
PRETORIA — Unsettling whites during the apartheid years was one of the objectives of an Umkhonto we Sizwe bombing campaign in the 1980s, MK master bomber Aboobaker Ismail told the truth commission yesterday.

Ismail testified that the deaths of white troops made the white population ask the question whether the country could afford the continuing loss of life.

The committee is hearing the amnesty applications of members of MK's special operations unit. Ismail is seeking amnesty for several bombings, including the Church Street bomb outside the SA Air Force headquarters in Pretoria in 1983, which killed 19 people and injured 200.

He reiterated that it was not African National Congress policy to attack civilians, and denied that the Church Street bomb — which he said was authorised by the ANC leadership — was racially motivated.

Advocate Louis Visser, representing some of the victims, suggested the bomb was aimed at white civilians.

"People continue to argue as if apartheid did not exist and as if there was no military machine attacking black people," Ismail said. "There was war in this country."

He said it was time people recognised this war was brought about by racism and apartheid.

Visser put it to Ismail that the possible loss of white civilian life was not taken into consideration in planning the Church Street bomb.

This was in stark contrast to Ismail's admission that MK would not have bombed the Sasol 1 oil refinery in June 1980 had the inhabitants of a nearby township been at risk, he said.

Ismail defended the Church Street bombing by referring to "the despicable conduct of the security forces who butchered children in 1976". — Sapa

State seeks Barnard's conviction

(257) *STW 15/5/98*
Prosecutors told the Pretoria High Court yesterday that former Civil Co-operation Bureau agent Ferdi Barnard's claim that State witnesses had conspired against him was unfounded.

They asked that he be convicted on 32 of the 34 charges against him, including the murder of Dr David Webster.

Anton Ackermann SC argued for the State that Barnard, who maintained his innocence and claimed he was the victim of a conspiracy, was not a credible witness.

"He (Barnard) is prepared to tell blatant lies where his freedom is at stake. He has perfected the distribution of disinformation to a fine art. He will intimidate witnesses where necessary. He has a strong personality and is capable of manipulating others," he said.

It was clear Barnard had conveniently put the blame for the crimes on two deceased friends, Corrie Goosen and Eugene Riley.

"That Barnard is a violent person who does not hesitate to seri-

ously assault and kill people is clear from the fact that he was in jail for murders committed on two separate occasions," he said.

He added that Webster's murder was clearly a political assassination.

Although the CCB claimed Barnard had been fired two months before the murder, it was clear he was still working for them on May 1 1989, the day of Webster's assassination.

Ackermann said Barnard had confessed to the murder to 11 witnesses on separate occasions. It was highly unlikely that these witnesses, who had no interaction with each other, would conspire to falsely incriminate Barnard.

Ackermann argued that Barnard should also be convicted for the attempted murder of Justice Minister Dullah Omar a few months after Webster was killed.

Barnard admitted he watched Omar on various occasions.

Counsel for Barnard will commence argument today - Sapa

Bomb attack was cowardly, TRC told

Nov 15/5/98 (252)

Perpetrators of Church Street attack

compared unfavourably with 'Wit Wolf'

By **ROBB NORTHEY**
Special Writer

Former SA Air Force lieutenant Zirkie Jansen, who was seriously injured in the Church Street bombing, yesterday compared the bombers unfavourably with "Wit Wolf" Barend Strydom.

Jansen was less than 2m from the Church Street car bomb when it exploded. He still sets off walk-through security apparatus, which detects metal, because of the shrapnel still in his body.

"If you looked at Barend Strydom you could at least see he was holding a gun, and defend yourself, or hide

"But concealing a bomb in a car and setting it off - I can't conceive how this could be fighting apartheid," Jansen said.

He spent seven months in hospital recovering from his injuries and was blind in one eye for three years due to glass fragments in the eye.

He told the TRC's amnesty committee in Pretoria he was opposed to amnesty being granted to the applicants responsible for the blast of May 20 1983.

Senior Umkhonto weSizwe member Aboobaker Ismail has applied for amnesty for masterminding the attack.

The two operatives who drove the car bomb to the site were both killed in the blast.

"I said from the beginning that I forgave the people who planted the bomb, but not the one who planned the attack - that was a cowardly deed. It was never acceptable and is still not," Jansen testified.

He said that if amnesty were granted, the applicant would walk away a free man.

"He'll never understand how the victims and their families suffered," Jansen said.

"I don't have a problem with the applicant's fight against apartheid but I do with his methods.

"If it had been a war situation, with soldiers fighting each other, then they could have talked of a struggle."

He said he had never thought of the SAAF headquarters building as a military target but simply as a building like any other in Pretoria's city centre.

"The ANC and the government were not at war - the situation between Swapo and the SADF was a war. For me it was more of a political power struggle," he said.

"I have never been a violent person but I was forced to spend time in a military uniform or go to jail, which would have been an awful waste of my life.

"The closest I got to a pistol was 30 minutes during my basic training.

"I feel that, in the military, we were indoctrinated. The ANC were always portrayed as terrorists," Jansen added.

The Rev Charles Martin testified that, contrary to evidence presented earlier this week by applicant Colin de Sousa, he had never recruited anybody for military training in the ANC or to carry out attacks.

He said he was a parish priest in Bonteheuwel on the Cape Flats and was sympathetic to the struggle.

When he was approached to help political activists who were in trouble, he would arrange safe houses for them or help them to get out of the country, he said, but he denied he had been active in recruiting people into Umkhonto weSizwe.

Yesterday's testimony completed this hearing and the parties were asked to make written submissions by June 7.

High courts' high riders

South African judges blew millions on Mercedes, BMWs and Volkswagens, writes Andy Duffy

South African judges spent more than R5-million of taxpayers' money on luxury new cars last year. Most of the money came from the Department of Justice, months before the cash-crunch that forced it to halt overtime pay to its advocates and prosecutors. The department and the country's attorneys general have also recently warned Parliament that underfunding is crippling the justice system.

The department's latest figures show that 20 judges took top-of-the-range Mercedes, BMWs and Volkswagens

part of their remuneration packages

Eight judges, including Deputy Judge President Piet van der Walt, opted for the Mercedes E320, which normally sells for R319 000. Three unidentified judges went for the BMW 740A, which sells for R440 900, before extras such as buffalo leather seats and colour TVs. Another judge took a Mercedes S320, which normally sells for R428 000.

Minister of Justice Dullah Omar approved all the deals, in terms of a judiciary remuneration scheme established under the previous government. The cars were all bought at hefty discounts to market prices. The total expenditure — R5,12-million — nevertheless shines like a beacon in an otherwise gloomy cash-strapped justice system. Poorly paid advocates and prosecutors are leaving in droves, and those left in the service are snowed under with case loads.

The money spent on the judges'

cars would have been enough to pay the annual salaries of 34 senior state prosecutors — three times the number operating in the office of Western Cape Attorney General Frank Kahn

Omar, who drives a 1992 Toyota Camry, says the expenditure is justified and in the public interest. "It is widely accepted overseas that a judge be remunerated adequately," Omar's representative, Paul Setsetse, says. Judges currently earn a basic salary of about R375 000 a year. "It is important to ensure a judge is well looked after, to ensure they are not exposed to bribery or corruption." He adds that there are no plans to entice the judiciary to tighten its belt.

Other pundits, however, say such spending is a waste of resources. Vincent Saldanha, representative of the National Association of Democratic Lawyers, says the car spending suggests the department's priorities are askew, "given the se-

vere crisis it faces in terms of courts, magistrates, prosecutors, the whole infrastructure. That money can better be allocated to meeting these immediate needs.

"The argument has always been that judges need to be paid a salary that doesn't open them to corruption, but one needs to draw the line somewhere. Judges need cars, but this should be done with a greater sense of modesty."

Department regulations currently allow permanent judges a new car to the value of around R370 000 — at current government purchase prices, the Mercedes Benz S320 or the BMW 740A.

The state is supposed to take back the car once the judge steps down. Most judges, however, buy the car at the market value at that stage.

The department bought 11 cars for new appointees last year and two replacement cars for judges in KwaZulu-Natal and the Eastern

Cape. The other provinces bought the remaining seven replacement cars.

Eight of the 20 new cars were bought for judges in Gauteng, including six replacement Mercedes for judges such as Judge van der Walt, and Pretoria High Court judges Freddie Roos and Henk van Dyk.

Wim Trengove, SC, member of the Judicial Services Commission, says the judges' package is "not out of line with what is necessary to attract the best lawyers to the bench."

He adds that judges' remuneration is still low compared to the private sector and to judges' pay overseas, and that if the cars were to go, salaries would have to rise.

"As far as the overall package is concerned, judges are under the same moral obligation as everyone else in the public service: the public interest requires all of us to tighten our belts."

Trengove drives a second-hand Toyota Land Cruiser

(257)

MTG 15 - 21/5/98

TRC's call on blast (252) victims

15/5/98
Sowetan

By Russel Molefe

THE Truth and Reconciliation Commission (TRC) has appealed to victims of the Afrikaner Weerstandsbeweging's pre-election bombings to come forward if they want to attend an amnesty hearing scheduled for June 15 to 26

The bomb blasts on the West and East Rand and in Johannesburg between April 24 and 27 1994 left 21 people dead and 46 injured

TRC spokesman Mr Mbulelo Sompetha said the commission had obtained lists of victims from court records and attempted to trace them

Car bomb

"However, the court records do not provide addresses for many victims. The act governing the TRC allows victims to attend and make statements on amnesty applications," Sompetha said

Those who want to make statements can contact Tania Hosking, at (021) 24-5161 ext 2283.

The "applications" of amnesty seekers claiming to have acted on behalf of the AWB cover attacks that started with the planting of a car bomb outside the African National Congress headquarters in Johannesburg on Sunday April 24 1994. Seven people were killed and 13 injured when the massive bomb exploded

A bomb was also detonated in Odendaal Street, Germiston, in which 10 people were killed and eight injured on April 25 1994

Barnard's (252) plot claim 'unfounded'

CT 15/5/98

PRETORIA: Former Civil Co-operation Bureau (CCB) agent Ferdi Barnard's claim that state witnesses had conspired against him was unfounded and he must be convicted on 32 of the 34 charges against him, including the murder of academic Dr David Webster, prosecutors told the High Court here yesterday.

Mr Anton Ackermann, SC, for the state, said that Barnard, who steadfastly protested his innocence and claimed he was the victim of a conspiracy, was not a credible witness.

"As a witness, Barnard impressed as a man who has the ability to interweave the truth and lies in such a way as to establish a credible story.

"He is prepared to tell blatant lies where his freedom is at stake. He has perfected the distribution of disinformation to a fine art. He will intimidate witnesses where necessary. He has a strong personality and is capable of manipulating others.

"He admits that he told lies under oath, that he misled judges and that he told lies in order to get his freedom," Ackermann said.

It was clear that Barnard had conveniently put the blame for various crimes on two of his deceased friends, Mr Corrie Goosen and Mr Eugene Riley.

"That Barnard is a violent person who does not hesitate to seriously assault and kill people is clear from the fact that he was in jail for murders committed on two separate occasions," Ackermann said.

Ackermann said Webster's murder was clearly a political assassination and said the CCB's attempts to distance itself from the crime were transparent and bumbling.

Although the CCB claimed Barnard had been fired two months before the murder, it was clear that he was still working for the CCB on May 1, 1989, the day of Webster's assassination.

Ackermann said Barnard had confessed the murder to 11 witnesses on separate occasions. It was highly unlikely that all of these witnesses, who had no interaction with each other, would have conspired to falsely incriminate Barnard.

He said Barnard's so-called "perfect alibi" — that he had been out jogging with former CCB agent Calla Botha when the murder was committed — was an unlikely story, especially as this alibi had never been revealed to either the Harms Commission or the Webster inquest.

There was strong circumstantial evidence that supported the witnesses who linked Barnard to Webster's murder.

Barnard, for example, had a particular affinity for sawn-off shotguns and admitted practising firing shots from a moving vehicle two months before Webster was killed.

Webster was killed with a shotgun, fired from a moving vehicle.

Barnard also admitted that at one stage he had a blond wig. An identikit compiled by a witness to Webster's murder was similar to Barnard's appearance with a blond wig on.

Ackermann said Barnard should also be convicted for the attempted murder of Mr Dullah Omar (now Minister of Justice) a few months after Webster was killed.

Barnard had admitted that he had watched Omar on different occasions.

His evidence that senior CCB member Slang van Zyl's offer of R50 000 to kill Omar had been a "joke" was unlikely, Ackermann said.

It was also unlikely that the CCB, who had officially approved Omar's assassination, would simply have asked Barnard to monitor the man.

Counsel for Barnard will begin argument today — Sapa

'Deny amnesty to those responsible for bomb'

BD 15/5/98 (252)

PRETORIA — The 1983 Church Street bomb in Pretoria was a cowardly deed and those responsible should not be granted amnesty, a victim of the bombing told the truth commission yesterday.

"I don't think they understand how the victims of the bomb suffered," Zirkie Bernardus Jansen said in Pretoria yesterday.

He told the commission's amnesty committee he had forgiven the bomb planters, but not those who gave the order. They selected a target frequented by civilians and military staff involved in administrative duties only, Jansen said.

The Umkhonto we Sizwe (MK) bomb claimed 19 lives and injured about 200 people, mostly civilians, outside the SA Air Force headquarters in the city centre 15 years ago next week. MK was the armed wing of the African National Congress.

Jansen said he did not consider the air force headquarters a military target. It was a building like any other in the city centre, surrounded by civilians.

Jansen was a state accountant at the time, and 23 years old. He was about 1m from the car in which the explosives were packed when it blew up. He suffered burns and his hearing and eyesight were impaired.

The committee also heard evidence from Charles Martin, a former MK operative, according to earlier claims by MK member Colin de Sousa.

De Sousa on Monday testified that Martin had recruited him and three others in May 1987 to undergo military training. De Sousa had kept Wits Command under surveillance before a bomb blast that year that killed a soldier and injured 68 others.

Martin rejected the allegations that he was the commander or a member of Unit C25 of the ANC's Bontsheuwel military wing — Sapa.

Molefe defends Shell House action

Taryn Lamberti

20/5/98 (252)

FORMER African National Congress (ANC) deputy security head Jacob Modise Molefe, who is applying for amnesty for his role in the 1994 Shell House shootings, told the truth commission's amnesty committee yesterday that had he been in a better firing position he could have mown down the Inkatha Freedom Party (IFP) marchers.

Molefe and 12 other ANC security officials are applying for amnesty for the deaths of at least eight Zulu marchers who were killed outside the ANC headquarters when they marched to Shell House on March 28 1994. In all, 19 people were killed during the march through the Johannesburg city centre.

"If I had wanted to react like Barend Strydom I could have, but because of the discipline in the ANC I did not do it," Molefe said. He said his duty had been to protect ANC property and the lives of ANC leaders in Shell House. IFP marchers were intent on disrupting the 1994 elections and the march was part of their plan to storm Shell House and kill personnel.

Molefe said he had fired only warning shots into the air, but had he been in a better position he could have "mowed the crowd down".

"I am not a murderer. They do not know what human life is all about. I could have mowed them down," Molefe said. He denied acting out of malice or hatred towards Zulus.

Molefe admitted that during a six-month inquest into the shootings he had expressed his hatred for those Zulu marchers who had worn red headbands. He said his views had changed since the inquest because "the country was changing".

He admitted that he might have exceeded the bounds of self-defence because some of the marchers who died were shot in the back while trying to flee the area. "That is why we are here. To say we went too far," said Molefe. The hearing continues today.

Police 'knew Eikenhof 3 didn't commit murder'

Star 16/5/98

(252)

By MONGADI MAFATA

Three years ago, the office of the Gauteng attorney-general stumbled on two Azanian People's Liberation Army "secret" documents that could have drastically changed the fortunes of the Eikenhof Three - but decided to keep quiet

This is one of the startling revelations in a petition submitted to the Appellate Division in Bloemfontein by Boy Titi Ndweni (24), James Sipiwe Bolo (28) and Siphso Samuel Gavin (27) for leave to appeal against their sentences for their alleged part in the Eikenhof killings

They also seek leave to call further evidence to prove that the Eikenhof attack was carried out by Apla members. The State is opposing their application

The three became known as the Eikenhof Three after being convicted for the murders of Zandra Mitchley, her 14-year-old son Shaun and his friend Clare Silberbauer at Eikenhof, south of Johannesburg, on March 19 1993

Bolo and Gavin received death sentences for the murders and a further 24 and 30 years respectively for attempted murder, abduction, and possession of firearms and ammunition

Mr Justice David Curlewis sentenced Ndweni to an effective 17 years. He rejected their leave to appeal against the convictions and sentence. The death sentences were later commuted to life imprisonment

The Eikenhof murders were said to be a revenge attack for an attack in which six black pupils were killed in the Table Mountain area near Pieter-

maritzburg on March 2 1993

The Truth and Reconciliation Commission's amnesty committee also refused to grant the three amnesty on October 10 1997 on the grounds that all three had denied responsibility for the murders

The two Apla "secret reports" that had been in the State's possession for about three years were seized by police at a safe house used by Apla members sometime in May 1995. They contained reports received by former Apla commander Phila Martin Dolo from the organisation's cadres who had carried out the E i k e n h o f attack

Dolo, who is serving a life term at the St Albans Maximum Security Prison in Port Elizabeth for murdering a policeman, later claimed in an amnesty application to the TRC

that he had ordered the Eikenhof attack. There is no decision yet on Dolo's application.

Investigators acting on behalf of the Eikenhof Three received information that an Apla member, Siphso Polite Xuma, had participated in the Eikenhof attack. Xuma declined to write an affidavit to assist the three until Pan Africanist Congress political prisoners had been granted amnesty by the TRC

All three men confessed during their trial held at the Heidelberg Circuit Court that they were self-defence unit members who operated under the banner of the ANC.

Gavin, who was 22 at the time of his arrest, told Judge Curlewis and two assessors that he underwent military training as a member of Umkhonto weSizwe for a year in Botswana. He handed himself over to ANC headquarters at Shell House in Johannesburg after Ndweni and Bolo were arrested. Bolo, who was 23 at the time of the trial, also admitted he had undergone military training. Ndweni was 19 at the time of the Eikenhof incident and a Grade 12 pupil at Maseke Secondary School at Small Farms outside Evaton

In a trial-within-a trial to determine the admissibility of confessions allegedly made by Ndweni and Bolo, who claimed police torture, Judge Curlewis said the two were "appalling witnesses" who had lied about the torture

Investigators working on behalf of the Eikenhof Three also unearthed a report, marked "Top Secret", from a police docket on the three that showed senior police officers had no doubt that the attack had been carried out by an Apla squad.

Shortly after the attack, a person claiming to be an Apla commander claimed responsibility for the incident.

The Eikenhof Three further contend that members of the investigating unit withheld information that five state witnesses had identified at least two Apla members as the attackers.

The three further contend

that the prosecution presented fraudulent evidence implicating ANC members to besmirch the organisation during negotiations about the transfer of power between the ANC and the Nationalist government.

A state witness in the trial, Nelson Mpunge, later claimed that certain members of the police had made him falsely identify Ndweni and Bolo after threats of torture

Another witness, Abel Korope, claimed in a sworn statement that he was promised R250 000 by former investigating officer and Brixton murder and robbery unit commander Superintendent Charles Landman to contradict Gavin's alibi that he was in Wesselsbron when the Eikenhof attack occurred

A few months before he stepped down as Gauteng premier, Tokyo Sexwale said the Eikenhof Three would be released "once the necessary paperwork had been completed".

"I want to tell them and their families that all that keeps them in prison now is paperwork," said Sexwale.

It has been 10 months since Sexwale made that statement, and for the Eikenhof Three, who have been in jail for the past five years, the wheels of justice are turning too slowly.

Two other ANC activists who were convicted for a crime they apparently never committed were released from Kimberley prison last year.

Siphso Mbaqa and Darlington Nkohla, both sentenced to 10 years, were freed after two fellow ANC cadres accepted responsibility for a bomb explosion outside the consulate of the former Bophuthatswana government in the early 90s

I want to tell them and their families that all that keeps them in jail now is paperwork

Council's firm stand on gay rights

ST(CM) 31/5/98 (202)
YVETTE VAN BREDA

THE Cape Town City Council has pulled out all the stops to force the Local Authorities Medical Aid Fund (Lamaf) to amend its rules to ensure that same-sex partners be treated the same as married couples

And they have the support of the SA Human Rights Commission (SAHRC), the National Coalition for Gay and Lesbian Equality and the Legal Resources Centre

Following a complaint by council employee, Johan Fourie, who wanted his lover of 18 years, Theunis Rautenbach, registered on his medical aid, city manager Andrew Bo-

raine came out strongly in Fourie's support

Boraine slammed Lamaf's attempt to treat Rautenbach as an "extraordinary dependant", saying the council would insist the medical aid amends its rules and, in particular, the definition of a "spouse" to include same-sex partners

The matter will come to a head on Friday at Lamaf's annual general meeting when they will be expected to announce any amendments to their rules in keeping with the recent "Langemaat" ruling

In that case a Pretoria High Court held that lesbian police captain, Jolande Langemaat, be allowed to register her partner of 11 years, Beverley-Ann Myburgh, as a medical aid dependant

"Langemaat and the Lamaf approach are both about dependants. This council's approach is about partners in a committed relationship, irrespective of gender, and I believe it is important to make that distinction," Boraine said

SAHRC spokesman, Mazibuko Jara, as well as the National Coalition for Gay and Lesbian Equality and the Legal Resources Centre warned they would take the matter further and consider litigation if Lamaf did not comply

"We await the decision of the Lamaf general meeting with anticipation. If they do not comply, we will sit down with Fourie and SAHRC to consider what steps to take next, including litigation," Jara said

NEWS

SATURDAY STAR
MAY 30 1998

Community courts soon to get the nod

If Motshekga has his way, Kgotlas could be up and running by early 1999

By MONGADI MAFATA

Imagine being sentenced to 60 hours of community service by a lay magistrate whose formal education is a primary school certificate and whose day job involves cleaning company offices.

Add to that the prosecutor's claim to fame is his ability to ask probing questions which unmask the accused's web of lies. The prosecutor's education was gained at the "university of life" - he has no formal schooling.

This may sound far-fetched, but if Gauteng Premier Mathole Motshekga has his way, community courts could be up and running within eight months in his quest to bring justice down to the people.

"Formal courts have been largely inaccessible, ineffective, inefficient and are overloaded with petty cases," says Motshekga.

He wants to change all that and has the support of Justice Minister Dullah Omar and Safety and Security Minister Sydney Mufamadi.

During his budget speech, Omar said there was a need for community-based structures both in urban and rural areas to deal with problems and disputes that arise on a daily basis.

"Petty crimes overstretch the police and the criminal justice system, and petty criminals are packing our jails. They leave the police with little time to investigate cases and this results in fewer convictions," says Motshekga.

He adds that the system is not working and that the needs of victims of crime are not addressed by the current situation.

"This has eroded respect for the law from the victims' point of view as they see their aggressors still roaming the streets. If we do not do something quickly, we will be faced with the law of the jungle."

Motshekga is leading a pilot project under the auspices of the Khayalami Metropolitan



(GMA) Star 30/5/98

PEOPLE'S JUSTICE: Premier Mathole Motshekga wants "people's courts" regulated and integrated into the justice system so that harsh and unjust punishment, such as the above victim's cruel whipping by a "kangaroo court", are stopped

Photo: CHRIS ADLAMI

ices, and safety and security departments, which drafted a community courts bill. A task team will circulate the draft bill to community and non-governmental organisations, and it is also planning a provincial conference next month to debate the bill.

The team is currently developing training modules with a heavy emphasis on human rights and dispute resolution for presiding officers, assessors, paralegals and counsellors.

"Ordinary people have a sharp sense of justice, all we need is to formalise and democratise *makgola* structures that are prevalent in Soweto and other townships throughout

The system is not working and the needs of victims of crime are not being addressed

the country to avoid vigilantism and human rights violations," says Motshelga.

People would be appointed by the community and would hold office at the pleasure of the community. People appearing in community courts would not have legal representation, and proceedings would be in the most commonly used language in the area. Serious offences such as murder and rape would be passed on to formal courts.

The Department of Justice, which should oversee the implementation of the system, would accredit all appointments through district magistrates and provincial legal officers.

"Unlike kangaroo courts, punishment would adopt a constructive role. It would serve to educate and rehabilitate the offender while restoring peace to the community," says the premier of the most crime-infested province in the country.

Motshelga can trace the evolution of the *makgola* courts to pre-colonial days, when chiefs presided over village *kgotlas* similar to the Roman senate, but he says colonialism



WIDER REACH. Motshelga hopes that properly constituted community courts will make justice accessible to far more people

put the brakes on the development of the African court structures.

He says counter-revolutionary elements latched on to the *makgola* concept in the early 80s. They neutralised legitimate leaders, and communities fell prey to disoriented leadership. So the bloodthirsty judge-jury-and-executioner-style kangaroo courts were born, often feared by the very community from which they sprang.

Taxpayers who are about to throttle Motshelga for coming up with another government scheme to bleed them dry need not worry, because Motshelga promises that the system will be self-sustainable.

"We need to develop a sense of community service to move away from the payment mentality. Taxpayers' money is not enough; that's why we need to mobilise people to render service without reward. Why do we need to get paid to turn our communities into peaceful neighbourhoods and ensure there is

safety and security for our children?" asks Motshelga.

The Justice Department has even incorporated the concept in its Vision 2000 plan to transform the justice system, and it has also been discussed within the South African Law Commission. The commission, which is researching the process, is due to present a report on community courts to Omar.

Black Lawyers Association president Jake Molozi says the organisation is fully behind Motshelga because the current judicial system is "alien to the majority of the people. It's a system that was imposed on us and does not hold African values sacred, whereas the traditional *kgotlas'* trump card was quick delivery of justice. In the *kgotla* everybody had access to dig up the truth, and a binding solution was reached in an open and transparent manner," says Molozi.

The reason most South Africans reject the current justice system is because it aligned itself with the apartheid government and entrenched discriminatory practices, Molozi says.

"The present system is 90% white, and is full of people who still despise blacks and are not prepared to understand black life. We need community courts so that people can take full control of the delivery of justice."

"The entire legal structure needs to be overhauled, and Africanism and ubuntu should be built into the system," says Molozi.

National Association of Democratic Lawyers spokesman Krish Govender says the

Caution is needed against those who might utilise the system to hurt and abuse others

advantages of community courts far outweigh the disadvantages.

"Community courts can be extensions of the law to communities based outside cities and who don't have access to courts, and where law enforcement agencies are inefficient and slow," says Govender.

However, he cautions against the system being utilised to abuse and hurt people. "People who control community courts should guard against being easily influenced and disrespecting the general principles of justice such as a fair hearing to all parties," adds Govender.

"The community has been able to nip minor problems in the bud because problems were easily identified and disputes resolved quickly," he adds.

But for Francinah Lekhuwane of Letebane village in Northern Province, who is fighting for her life at Mankweng Hospital after allegedly being shot by a member of a vigilante group who was patrolling the street, things are changing too slowly and too late.

Into the heart of darkness

SA's smartest sleuths were given 10 days; four years on they're still probing apartheid's dirty tricks

Star 30/5/1998

CHARLENE SMITH entered the special investigations team's lair and found a group determined to make "Never Again" their unofficial motto - because of the horror and terror they have dealt with while uncovering South Africa's past

There is an air of peaceful benevolence about the old Maize Board building in Pretoria. On the steps, a splayed-out plump tabby suns herself, myriad small plastic bowls with milk and cat food nearby. But a few floors up are files and files of some of the worst atrocities imaginable: people injected with poison and sedatives and then blown up in vans, a man made to kneel over a limpet mine on a railway line which was then detonated, other young men tortured with welding rods before being murdered, a file on the mild-mannered husband and father who has confessed to 250 murders in the name of research, for *work and underland*.

For the old Maize Board building is the headquarters of Transvaal Attorney-General Jan D'Oliviera's special investigations team.

The first lesson that assigned investigators and advocates learn is that there is nothing too far-fetched, nothing too cruel, nothing too extra-

"They realised we were about to charge them and went to the Truth Commission and confessed to the murders they believed we knew about." Riegal du Toit, one of the three advocates on the team, recalls. "Then, some months later, they discovered we knew about some other murders and went back to the TRC to plead for amnesty for another eight murders they claimed they had forgotten about the first time."

Another of the team's difficulties is that some of its witnesses become exposed during Truth Commission hearings, which compromises their lives and those of their families, even though an effective witness protection programme is in place. But what concerns the task team is that when the TRC finishes its hearings next month, one of two things could happen.

The first is that the special investigations team will be expected to prosecute some people who were

It is mind-boggling stuff, you cannot fathom how way-out all of it is

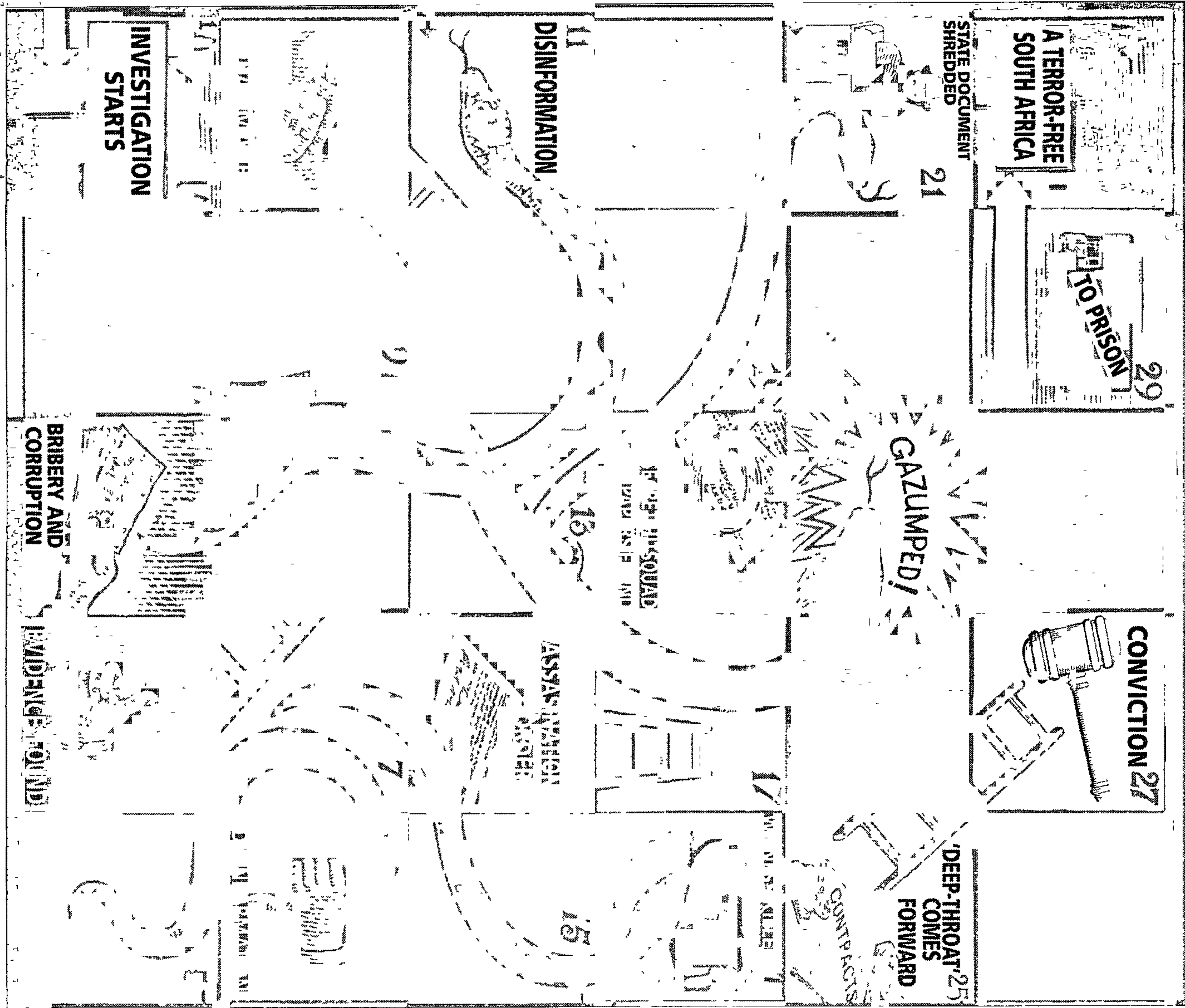
1994 Investigators living outside Pretoria were told to bring enough clothes for 10 days. That term was extended to three months. Four years later there is no end in sight.

The investigation of third-force activities in the police now includes the defence force and intelligence agencies, and even organised crime. Pretorius says: "Every day we get asked to take on more work. We can't, but people don't know who to trust, who they can turn to. They believe they are safe with us."

Some of the organised-crime investigations from the Johannesburg attorney general's office have been referred to the unit because investigations were being stonewalled in Johannesburg.

The members' reputation for incorruptibility wins them few friends among their peers. Pretorius's predecessor and two police officers on the unit were redeployed after experiencing burnout and psychological strain. They are hated by those they investigate, as well as scorned by other police officers, who view them as traitors, and are even shunned by members of their communities. Death threats are frequent. Some members have been assaulted, and they are frequently sworn at.

This places pressure on the members of the team, exacerbated by a lack of any clear career path: if the team gets disbanded, where do they go? Have they wasted time with the unit when they could have been climbing safer career ladders within their previous departments?



And they are determined that they will not happen again.

The members of the unit see things in purely practical terms. Their hope is that they will become the forerunner of a South African version of the US's Federal Bureau of Investigation. They want to become the finest, most incorruptible law enforcers in the land who bow neither to political office, nor regional boundary, nor bureaucratic red tape to seek the truth, and punish those who endanger democracy and personal safety.

Pure evil

The Government has yet to respond to this suggestion. Dr Torrie Pretorius, who heads the unit, believes there is such a thing as pure evil - even though he's well aware of the socio- and psychological reasons for perpetrating mass murder. Low self-esteem, unhappy family backgrounds.

His deputy, Michelle Ramoorthy, agrees with the pure-evil theory.

She is one of three advocates on the task team, supplemented by 20 of South Africa's best police officers.

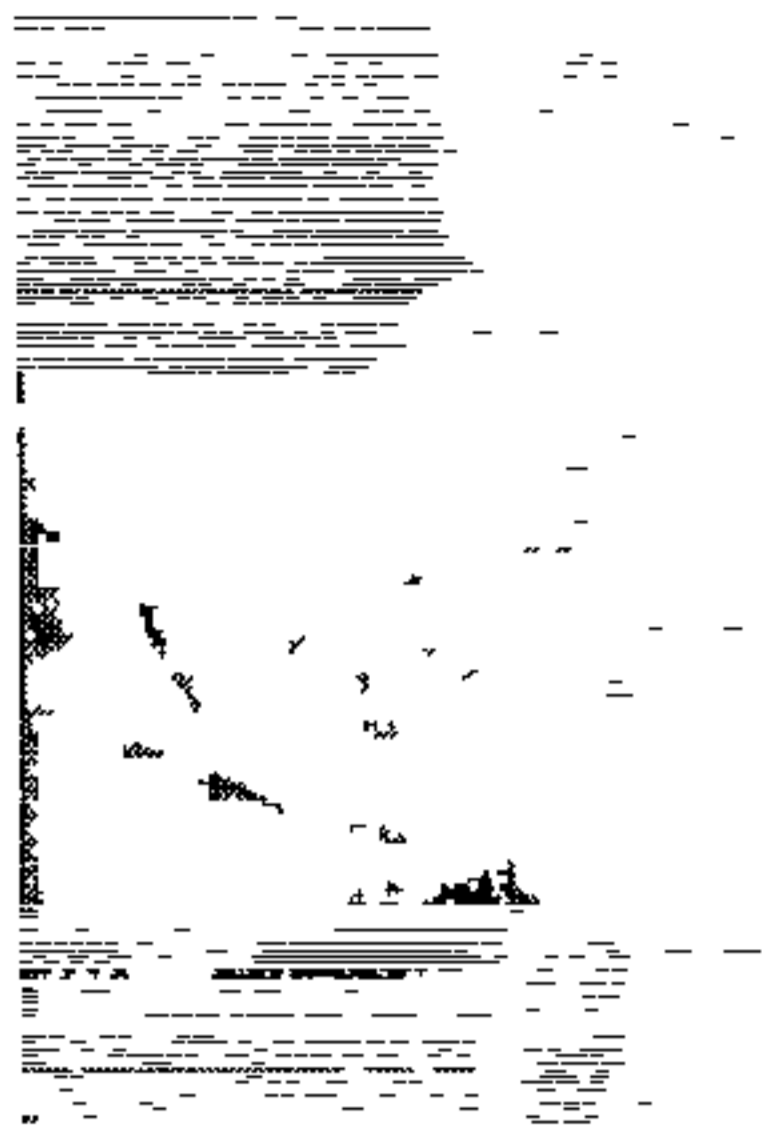
Ramoorthy dresses immaculately, her nails carefully manicured and her hair perfectly coiffured. She looks like a beauty queen wannabe. The image is deceptive: she's the thin edge of the wedge prying open the Pandora's box of South Africa's chemical and biological warfare programme, as epitomised by one Wouter Basson and his cronies from Armscor and the former SA Defence Force.

If ever there were a heart of darkness, this is it. The case against Basson comes before the courts in August, and before the Truth Commission next month. Her investigations signal the start of deeper probes into the defence and intelligence apparatus in South Africa.

"You cannot imagine how corrupt, evil and wicked some of what we deal with is. It is mind-boggling stuff. . . you cannot fathom how way-out all of it is. I listen to some of the things these perfectly ordinary people tell us, and it is absolutely unbelievable what they have done. She cannot give details.

"For us," Ramoorthy says, "it is do or die we have to present a case that will put these people in jail."

While the task team is about retribution, it is to some extent hamstrung by the Truth Commission, which is about reconciliation. Many a killer has run to the TRC once the task team picked up his or her trail. The team recalls one duo in particular who have been implicated in at least three dozen murders.



FARGHEID, Wouter Basson, whose trial starts in August



FARGHEID, Wouter Basson, whose trial starts in August



FARGHEID, Wouter Basson, whose trial starts in August

denied amnesty, "but even though they confessed to murders and other wrongdoings before the TRC, we cannot use any of that evidence."

"In terms of the TRC legislation, Pretorius explains, "we have to build a separate case. If the court is not able to effectively convict someone who admitted murders to the TRC, the public will blame us."

The second thing that could happen is that the TRC could suggest that a range of matters be prosecuted. "If they want, say, 200 cases, to go before the courts, we simply lack the manpower to investigate and prosecute them all."

The task team was formed on March 18 1994 and flowed from Goldstone Commission hearings into three-force activities. Pretorius was a member of that commission. The task team began work in May

they would have a greater sense of purpose, a feeling of safety and a definite career path, they say. Now they have stress and more stress. And bucket loads of gory stories.

"We're fighting a culture of 40 years or more," Du Toit says. "Police struck together. The country was divided."

Take the case of murdered anthropologist Dr David Webster. Says investigator Mark Wale, "The assassination went through inquest courts and commissions of inquiry, and all the time 'sweeping' (concealing information) was going on, all the time those who gave evidence were blushing. They concealed the truth."

Fled

"At that time it was about culture, *volk* and *vaderland*," Pretorius says. "If an askari did not like what Eugene de Kock was doing and wanted to talk, he was killed. But the military still has to be cracked, and those guys were professionals, not like Vlakplaas."

The unit's investigations into former Vlakplaas security police commander De Kock alone has led to a further 400 ancillary investigations. "He was involved in more or less 200 incidents and in each at least five people were involved in the killings; every incident seems to lead into others," Pretorius says.

The confession of former askari and security police operative Joe Mamasela led to evidence of 30 murders and two years of investigations. The task team was ready to prosecute when the accused all fled to the TRC to plead for amnesty.

Take the case of Jacques Hechter and former Brigadier Jack Cronje. Du Toit investigated them and assembled a docket with 29 charges of murder, five of attempted murder, one of arson, one of malicious damage to property and 10 other incidents. They were involved in an incident at Nierverdend near Zeerust, where 10 young men, enticed by Mamasela with the promise of ANC military training in Botswana, were lured into the bushes, where special operations units of the SA Police were waiting. They injected the men with a sleeping agent or poison, and placed them in a van and blew it up.

Hechter and Cronje have confessed to the TRC that they also blew up KwaNdebele homeland minister Piet Ntuli, with a car bomb custom-made to fit Ntuli's Toyota Cressida. There was the killing of Sergeant Richard Motasi, who laid a charge of assault against his commanding officer and refused to drop it. Hechter and Cronje murdered him and his wife in front of their child.

On another occasion, they took



WINDOWS INTO THE PAST. When the National Party ruled, corn cobs were counted in the former Maurice Boer building in Pretoria. Now they're counting the murders committed to keep the Nazis in power.

Every day we get asked to take on more work, people don't know who to trust

three police informers to Prensars-river, near Warmbaths, and tortured them with welding equipment before killing them. All of this they have admitted to the TRC, and all of this the task team has to obtain clear proof of, if they want an effective prosecution that cannot rely on TRC evidence.

The task team refers to the "Big

"Only yesterday I spoke to an important witness who said 'I knew you were coming'." Pretorius says. "There are some people who want to talk. They will say 'I have had this on my conscience for 10 years', and they say that 'Until now we trusted no one, people would talk and wind up dead'. But there are others who will never talk - they sweep."

Pretorius says a unit such as special investigations is an effective way to "check abuses of state power or organised crime, not only in the past but in the future. How do we stop a new Vlakplaas or Mboikodo?" "Is taxi violence and car hijacking from the street, or part of something else?" We are in a window of history. There was the political will to create

I just spoke to an important witness who said: 'I knew you were coming'

this unit. But we cannot believe that we have left all these things in the past. There are people in jobs today who were involved in abuses in the past. There may be people tomorrow who get tempted. Power corrupts."

Du Toit says "We are not up against a couple of police generals and constables, we are up against a system that has to change."

Cases that the task team is, or has been, investigating include those that resonate most powerfully in the shameful annals of apartheid history: the murder of Durban academic Ric Turner, the murders of National Party politician Dr Robert Smut and his wife, alleged assassin and gangster Ferdi Barnard; confessed assassin De Kock, the Motherwell bombings, the air crash of Mozambican president Samora Machel, the Helderberg air crash; the activities of the Black Cats gangsters in Erniele, the death of Steve Biko; the deaths of Matthew Goniwe and his three close friends; the assassination of Namibian human rights lawyer Anton Lubowski; the supply of arms to Inkatha; the list goes on, in a horror story of inhumanity.

The question poses itself over and over to the team. How do we ensure that it never happens again? How does the *ruma mas* - never more - of Chile and Argentina become two words we engrave on our hearts?

TRC told of IFP (252) Shell House plan *Sowetan 18/5/98*

By Russel Molefe

THE Truth and Reconciliation Commission amnesty hearing at the Central Methodist Church in Johannesburg on Friday was told of plans by Inkatha Freedom Party supporters to attack Shell House during their march on March 28 1994

Mr Tebogo Beca, then an officer in the African National Congress' intelligence unit and now head of the National Intelligence Agency in Gauteng, said he received information some months prior to the march that an attack on Shell House was under discussion within the IFP

Beca told the amnesty committee he also received information from

high profile sources within Alexandra hostel that its residents had been addressed by Mr Themba Khoza, Mr Humphrey Ndlovu and various indunas, and "there were some reference to an attack on Shell House"

He said he saw groups of IFP marchers in front of Shell House whose conduct was very provocative and insulting

'Insulting'

"Some women would run towards us and lift their skirts"

"That behaviour itself is insulting and I didn't know why we were being insulted," he said

As tension mounted, he was issued with a pistol from the ANC armoury as it was clear that there was no ade-

quate police protection around Shell House

Some time later, he noticed another large group of IFP marchers moving quietly in De Villiers Street

He said he then went under the parapet of Shell House in King George Street and upon arrival, sounds of automatic and pistol gunfire emanated from the marchers

"The ANC personnel then returned fire

"I fired a number of shots with the pistol," Beca said

Beca is one of the 13 former ANC security personnel applying for amnesty in connection with the Shell House massacre in which nine people died outside the ANC head office in Plein Street on March 28 1994

TRC succeeds in unearthing truth

Sowetan 18/5/98

(252)

By Claire Keeton
Feature Writer

EXHUMING the bodies of missing 'anti-apartheid' activists buried secretly by the police is a grim task, but it is an area in which the Truth and Reconciliation Commission (TRC) has had measurable success

At the first human rights violations hearings in East London in April 1996, survivors and victims appealed in desperation to the TRC to help them trace the remains of their loved ones

Up to now 48 bodies have been exhumed around the country - from Louis Trichardt to Aliwal North - and many more are scheduled to take place in the TRC's final three months

The head of TRC investigations, Commissioner Dumisa Ntsebeza, told *Sowetan* "The TRC identified 'disappearances' as being one of the most important themes in establishing as complete a picture as possible of gross human rights violations (as prescribed by the TRC Act)

"One of the objectives of the TRC has been to restore dignity to the victims and survivors of violations. Not only did the public hearings provide an opportunity to relate their accounts, but what is clear is that the exhumations have also been a catharsis for people and gave them a sense of closure"

Many families have been waiting for decades to know what happened to their children or partners, and now the TRC has uncovered some of the answers

"The TRC has done what it promised. I'm happy I know the truth at last, after years of trying to find out," said the mother of a deceased cadre, Thontsi Gardiner

Three graves

Her son, Watson Majova, was exhumed from a grave with two other bodies near Phokeng in North-West. The TRC uncovered 12 bodies in three graves during the exhumation in March

For every body that is positively identified, however, there are unfortunately dozens more which will never be

"We think there are still about 50 more bodies near Phokeng. But there are no photos, police records or undertakers' records - nothing!" said Captain Fanie Molapo

The intrepid TRC investigator has played an important role in finding disappeared activists and preparing for exhumations, as has his Durban-based colleague Gail Wannenburg

Molapo has tirelessly tracked down



TRC investigations head Dumisa Ntsebeza.

the remains of activists for nearly two years. "He has been most persistent and done exceptional work," Ntsebeza said

Molapo's starting point is usually based on information from families who approach the TRC about missing relatives, and not on the data in amnesty applications

In many cases the people who disappeared were political activists from the African National Congress. Molapo said the ANC has a register of 258 "comrades who died in combat" in South Africa, which lists their names along with the place and date of death

This record is helpful for tracing deceased cadres, and the next step in such cases is to check the records from police stations in the vicinity of the death. The post mortem dockets from the police refer to inquest dockets, which are kept at magistrate's courts

"The inquest dockets have the fingerprints and photographs of the deceased," said Molapo. "I take these back to Shell House (the ANC headquarters) and the family is contacted by them. Once they have confirmed that the photos are of their loved ones, I go back to the municipality"

The municipalities keep a death register with details of all the graves in their area, and this often indicates the site for exhumation. Buried cadres are frequently labelled as "unknown black" males or "terrorists"

A well-known firm of undertakers, which was contracted to bury police victims, has been cooperating with the TRC to identify unmarked graves on farms and in graveyards

For example, the remains of four activists (including former Gauteng premier Tokyo Sexwale's brother) were only uncovered on a farm near Aliwal North last year once the under-

takers and a former policeman pointed out the graves

"Our leads point to collusion between the police and undertakers, but this is not conclusive without further investigation," said Ntsebeza

"We have achieved relative success, but there are hundreds of people not yet accounted for - the size and the scale of this is huge. We are not going to finish the exhumations in time"

Apart from the official graves of "unknown" victims, he said there were about 50 secret graves in Northern Province around Louis Trichardt, another 50 in the North-West, and an undetermined number along the Lesotho border near Ladybrand and around Butterworth in the Eastern Cape

"The ANC and Pan African Congress have alluded to exhuming the bodies from judicial executions, and of activists who died and were buried outside the country," said Ntsebeza

"The ANC in exile had certain camps where it was clear they would be overrun by enemy forces. Each grave with a name and date of death was destroyed, leaving no evidence of burial sites"

He said one way to commemorate these activists would be to erect memorial sites in certain countries, with the names of all fallen cadres imprinted on a memorial

Expectations of exhumations were raised, though, when the TRC exhumed the body of Black Consciousness leader Onkgopotse Tiro in Botswana earlier this year to allow for his reburial in South Africa

But the ultimate fate of other popular leaders killed by the police, such as the three Port Elizabeth Black Civic Organisation leaders Siphon Hashe, Champion Galela and Qaqawuli Godolozu, may never be known

Conflicting testimony

The amnesty applications concerning their murder gave conflicting testimony, "none of which seem to tie together", according to Ntsebeza. The TRC has been inundated with information that the bodies of the "Pebco 3" were not burnt, but thrown down a mine shaft or buried

Ntsebeza said "The TRC is perceived to be an organisation for unearthing the truth, and we have done this literally. If the TRC has done nothing (else), it has been successful in the area of exhumations"

He recommends that the private sector and civil society should assist families with the resources needed for exhumations when the TRC closes down in July

Monday May 18 1998 **SOWETAN**



Flashback ... the funeral of Black Consciousness leader Onkgopotse Tiro in Botswana in 1974. His body was exhumed earlier this year and reburied in South Africa.

R850 000 reprieve helps bench

GLYNIS UNDERHILL
SPECIAL WRITER

At last somebody has noticed that Mitchell's Plain Chief Magistrate Peter Festus is in a gloomy clerk's office with drab furnishings.

This is set to change when the regional justice department invests R850 000 in turning the run-down Mitchell's Plain building into a "model" court.

It is to get an overdue facelift and new equipment, and the staff is to be

trained in human relations

Mr Festus would be given an upgraded office and furniture, in line with his senior position, said Hisham Mohamed, regional head of the Department of Justice

"He deserves a proper office, with decent furniture

"At the moment he is sitting in a clerk's office," said Mr Mohamed.

As part of the special project, magistrates at the court will have "sensitivity training" to bring them in line with the new dispensation.

Officials who dealt with maintenance claims would be sent on courses in human relations, Mr Mohamed said.

The project would include fast-tracking programmes for prosecutors.

A relieved Mr Festus said the upgrade was "long overdue"

"We have 1 500 people coming to court daily
"We have struggled under these poor conditions all these years," he said.



Grey day: chief magistrate Peter Festus in his clerk's office. "We have struggled under these conditions all these years"

Gruelling trials of a fighter for justice

For prosecutor Michelle Adams, it's a round-the-clock job

ASHLEY SMITH
STAFF REPORTER

Every day Michelle Adams relives brutal and stomach-churning crimes.

The 28-year-old Kraaifontein mother of two is a prosecutor at the over-burdened Mitchell's Plain Regional Court.

Her court deals with the more serious crimes committed in Mitchell's Plain, Guguletu, Khayelitsha and Nyanga.

She's put many violent criminals away, she explains.

Ms Adams is as passionate about putting criminals behind bars as she is about the justice system reaching

out more effectively to the victims of crime and the community at large

But these days, trying to gain ground against the criminal onslaught on the Cape Flats has amounted to "just another bad day at the office"

On this particular day, she has nine trials on her court roll and, in spite of this being about six fewer than the magistrate's court prosecutors deal with on a "good day", it is probably already six too many for her to handle

Five days a week and most of her weekends are spent preparing her cases by delving into files and sifting through witnesses' statements

But it is a rape conviction in Knysna that Ms Adams vividly singles out as a crowning achievement in her career as a prosecutor, which started in 1992

"I went on circuit duty in Knysna at the end of last year and I managed to prosecute successfully a rape case in which the victim was still receiving psychological counselling a year after the attack," she says

Helping victims overcome trauma by putting away the perpetrators is the driving force behind her determination to do her job in spite of severe stress and inhumane working hours

Today, she is having an especially bad day at the office, which means it has been a particularly stressful and energy-sapping morning

It's 1pm and she has been at work since 7.45am.

Until just before 9am she was busy completing preparation for the nine trials to take place in B-Court today

Initial preparation took about four hours at home the night before.

She got up at 6.15am, dropped her three-year-old son Mikhail at her mother's house, took her daughter, Melicia, to primary school and kissed her husband, Hadley, good-bye before he boarded the train to Ntabeni.

"Then it's off to work, before I can catch my breath."
B-Court is where most of the serious offenders, facing prosecution for rape, murder, sexual molestation and serious assault, are brought to trial.

Her legal career, which she has pursued with vigour since matriculating in 1989, has not become too much for her yet, but she is one of the lucky ones

Each day the load increases dramatically

But she is not complaining and is determined to juggle marriage, a severely hampered social life, aspirations for the future and, of course, work, work and more work.

A graduate of the University of the Western Cape, where she completed her B.Proc degree in 1992, Ms Adams is particularly concerned that the courts have not yet "reached out" to the community in an effective way

"To the community I say, get more involved. Sometimes people simply refuse to come to court to testify and although I can understand their fears and pressures, they need to help us remove criminals from their neighbourhoods," she says

Having lived in Kraaifontein all her life, Ms Adams is all too familiar with the scourge of gangsterism and crime that has cast a dark cloud over the Cape Flats

But she admits she was ill-prepared for the demands of prosecution when she graduated.
"You could say the training at university was not good because it was theoretical knowledge and, when I started, I knew nothing about what went on in court," she says.

AR 4/18/6/98 (252)

CARGO MAIN FOCUS

TRC probes Helderberg

A TOP FORENSIC EXPERT is to tell of a cover-up of the ill-fated SAA Boeing crash. He also wants a new judicial inquiry into the alleged conspiracy, writes **TROYE LUND.**

A NEW inquiry into the Helderberg air disaster is being launched by the Truth and Reconciliation Commission (TRC)

In-camera hearings will be held in the TRC's Cape Town head office between June 1 and 3. The main focus of the hearing will be the nature of the cargo carried by the South African Airways (SAA) Helderberg, a Boeing 747 Combi.

The aircraft was flying from Taipei to Johannesburg when it plunged into the Indian Ocean on November 28, 1987 after the pilot, Captain Dawie Uys, reported smoke on board.

The hearings will also concentrate on the former government's Judge Cecil Margo-led investigation and report on the crash. The three-year inquiry has been accused of being a government cover-up by media investigators, independent forensic experts and the Friends of the Victims of the Helderberg (Fovoh).

The office of the Transvaal attorney-general has also been investigating 157 cases of culpable homicide linked to the crash, which is expected to shed new light on the tragedy.

Forensic expert Dr David Klatzow, who has been investigating the crash for several years after being asked by Boeing to investigate it in 1987, is among those invited to give specialist testimony and analysis to the commission.

He has challenged SAA and the Minister of Transport, Mr Mac Maharaj, to make all the witnesses in the case available for a proper judicial inquiry.

Klatzow said yesterday that in his view the Margo report was "not worth the paper it was written on" for the following reasons:

The Margo report is not worth the paper it was written on — Dr David Klatzow

● Key witnesses were never called, like the pilot who removed the taped conversation between Uys and the ZUR radio station at Johannesburg International Airport landing base.

● The Margo inquiry never established the "germane question", namely how the fire occurred and if there was a responsibility to be apportioned.

● This inquiry never concluded what caused the fire on board the plane and Margo found no evidence linking blame to anyone for the crash.

● Important conclusions by the Boeing fire experts were ignored by Margo's report.

Klatzow, after consideration of the available evidence, believes that there were probably two fires on board the plane that night.

"And, if this is so, it is likely that the missing ZUR tape was not accidental," said Klatzow, who is of the view that Uys would have landed after the first fire but was com-

pelled to stay aloft.

Klatzow stressed that the Margo report raised more questions than answers.

Among the key witnesses that Klatzow will mention at the TRC is SAA pilot Mr Jimmy Deal, who has confessed to Klatzow on tape that he removed the ZUR tape, and the Department of Civil Aviation whose initial inquiry Klatzow called "less than competent".

SAA spokesperson Mr Mike Pheffer yesterday said: "If there are new details we would be happy to ask the minister of transport to launch a fresh investigation."

Those invited to make further representations to the commission include former and current staff from SAA and Armscor.

Others invited are Mr Gert van der Veer, former SAA chief executive, Mr Mickey Mitchell, former SAA flight operations director and employees Mr Tienie Willemse, Mr John Hare, Mr Joseph Braizblatt and Mr Vernon Nadel.

Former and current Armscor agents and members of subsidiaries were also invited to give evidence.

New evidence leads to Machel inquest

WILLEM STEENKAMP
SECURITY WRITER

ONE of the great mysteries of the apartheid era — the October 1986 air crash in which Mozambican President Samora Machel died — is to be probed by the Truth and Reconciliation Commission, which says it has information linking it to former SADF activities.

The circumstances of the crash, as well as the finding of the multinational Margo commission of inquiry that it was caused by pilot error, have been hotly debated over the years.

There have been persistent allegations that the plane was lured off course and into mountains by a false radio beacon in a South African "dirty tricks" operation.

Machel and 33 others died on October 19, 1986, when their aircraft, a Soviet-made Tupolev 134A-3 piloted by a Russian crew, slammed into mountainous terrain near Mbuzini on the Swaziland-Mozambique border.

The crash site was probed by South African, Mozambican and Russian investigators.

A commission of inquiry under Mr Justice Cecil Margo and includ-

ing former British Lord Justice of Appeal Sir Edward Eveleigh, former US astronaut Colonel Frank Borman, retired British chief inspector of accidents Mr Geoffrey Wilkinson, former civil aviation commissioner Mr Jacques Germishuys and then Comair managing director Mr Pieter van Hoven, was assembled in 1987 to determine the cause of the crash.

Evidence before the commission included that the Tupolev flight crew had not used their instruments and navigational aids properly, that they had ignored a ground proximity warning alarm

for 37 seconds before the crash, and that they had not taken on enough fuel to divert to Beira in the event of a problem.

However, there was also evidence of a mystery campsite, apparently belonging to the SADF, about 150m south-east of the crash site.

The TRC's in-camera inquiry will be held in the city on June 4, and evidence is to be heard from several witnesses, including a former SADF Military Intelligence operative, two other former SADF members and a former Mozambican official.

City courts on a knife-edge

ASHLEY SMITH
STAFF REPORTER

(2577)
ARG 18/5/98
Cape Town magistrates' courts are in a state of collapse as prosecutors battle astronomical case loads, severe stress and increasing criticism from frustrated people who expect the justice system to protect them.

Connie Erasmus, senior prosecutor at the Mitchell's Plain Magistrate's Court, said prosecutors were required to have at least 15 trials on their rolls every day.

At the end of April, there were 2 572 cases outstanding on existing rolls, a backlog of at least 200 cases a court in Mitchell's Plain.

The situation in the Cape Town Regional Court, which has a backlog of more than 1 000 cases, confirms the justice system is faltering under the weight of crime.

A prosecutor said that in March there

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Cape Town courts on the edge

From page 1 ARG 18/5/98

was a backlog of 680 regional court cases in Cape Town.

In addition, regional court prosecutors were required to go on circuit to Vredenburg, Vredendal, Calvinia and Springbok, which had 451 cases yet to go to trial. (2578)

By the end of March, 107 cases were finalised, but another 59 were on the roll and the circuit courts had gained another 54.

Durban was in a similar predicament with courts able to finalise only 10% of cases each month, creating a backlog of thousands and wasting about R18-million a year in taxpayers' money.

Often cases were delayed for months because of police investigations or witnesses not turning up at court, said Mr Erasmus.

There were examples of cases dragging on for years.

This created mistrust among people who wanted justice dispensed swiftly when someone was arrested for a serious offence.

The two regional courts in Mitchell's Plain, which dealt with violent crimes, including rape, murder and serious assault, had a backlog of 394 cases.

Mr Erasmus said courts were required to dispense justice in the midst of chaos, while trying to win the support of communities who were becoming increasingly frustrated by delays and postponements.

A

Shell House guard admits that he lied

19/5/98
(252)

JOHANNESBURG: A former ANC guard, seeking amnesty for the 1994 Shell House massacre, admitted yesterday that he had lied when he testified that his application was in his own words.

Mr Stephen Moolman acknowledged under cross-examination that he had referred to the application of fellow applicant Mr Veli Llale while filling out his amnesty application form. He said he had done this because he did not understand English very well and had agreed with what Llale had written.

Earlier Moolman had told Mr Dannie Dorfling, representing victims and their families, that he had used his own words while filling out the application. Dorfling drew his attention to two paragraphs where he used exactly the same words as Llale.

Dorfling said Moolman was "untruthful as to the content" of his application and his evidence was a fabrication.

Moolman also admitted he was wrong last year when he told the inquest into the massacre that Mr Modise Molefe, another applicant, was the first to fire at the attacking

Inkatha Freedom Party supporters from the balcony of the ANC headquarters.

Thirteen former ANC bodyguards have applied for amnesty for the shooting that left eight people dead outside Shell House.

Eight of the applicants have testified since last week, and they have all insisted that the marchers attacked the ANC before they decided to fire at them to defend the building and leaders who were inside.

In his evidence yesterday Llale, who works for the National Intelligence Agency, said he believed a civil war would have broken out if the marchers had succeeded in storming the building and that the 1994 elections would not have taken place.

IFP members, who attended in huge numbers and disrupted the hearing twice last week, seemed to have lost interest. A handful of them attended yesterday — Own Correspondent



'Killers of Pebco 3 were soldiers'

Star 19/5/98 (252)
Port Elizabeth - Seven former security policemen who abducted, tortured and murdered the so-called Pebco Three deserved amnesty because apartheid-era politicians such as Adriaan Vlok, General Magnus Malan and P W Botha were responsible for the war in South Africa, and not their soldiers, the Truth and Reconciliation Commission heard yesterday.

This was the argument of Kobus Booyens when the TRC's amnesty committee hearing resumed in New Brighton, Port Elizabeth.

Booyens is a lawyer representing some of the amnesty applicants responsible for abducting, torturing and murdering the three activists from the Port Elizabeth Black Civics Organisation (Pebco) 15 years ago.

He said political leaders supplied the fuel for the conflict fought by soldiers.

The applicants had been politically motivated in their actions and these had been committed at a time when there was a bitter battle between

Pebco and the security police, Booyens said.

The applicants are Gerhardus Lotz, Herman du Plessis, Sakkie van Zyl, Harold Snyman, Cornelius Beslaar, Johannes Koole, convicted murderer Gideon Nieuwoudt and askari (turned freedom fighter) Peter Mogai.

Booyens argued that although the security policemen had given a version of events in conflict with Mogai's, the committee could not say his clients' version was false beyond reasonable doubt.

The murdered activists - Qaqawuli Godolozzi, Sipho Hashe and Champion Galela, known as the Pebco Three - were abducted from Port Elizabeth airport on May 8 1985. They were tortured and murdered at Post Chalmers, a disused police station outside Cradock.

According to evidence given to the TRC, the three were enticed to the airport by an informer on the pretext of meeting a British diplomat who was to assist Pebco financially. - Sapa

Warders to appear over Bethal prisoner's death

TRC to hear evidence on Helderberg, Machel plane crashes

STAFF REPORTER

The Helderberg plane crash and the crash of the plane carrying former Mozambican President Samora Machel are to be probed by the Truth and Reconciliation Commission

The TRC's investigative unit has arranged hearings to be heard in camera in Cape Town between June 1 and 4 to hear evidence on circumstances surrounding the crash of South African Airways' Boeing 747 Combi, Helderberg, off Mauritius on November 28 1987.

Evidence will be given on how the Machel plane plunged into the mountains on South African soil near the Mozambican border, killing Machel and 33 others in October 1986

TRC investigative head Dumisa Ntsebeza confirmed that family and friends of the 159 Helderberg victims will submit information which may help to establish why the plane plunged into the sea after pilot Captain Dawie Uys reported smoke on board

Ntsebeza said 11 people, including Dr David Klatzow, a

forensics expert, who had been investigating the Helderberg Inquiry, would testify

He said they would answer questions about the nature of the Helderberg's cargo and the three-year investigation that led to an inquiry by Judge Cecil Margo, which found that nobody was to blame.

Family and friends of the victims have urged the commission to conduct further investigations

Those invited to make representations include former and current SAA and Armscor

staff, and Gert van der Veer, former chief executive of SAA

Margo also investigated the Machel crash and blamed pilot error. But Russian experts said the plane crashed because of a decoy signal

Ntsebeza said the commission had been presented with new evidence linking the crash with activities of the former SADF

A former SADF military intelligence operative and two other former SADF members have been invited to give evidence.

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(252)

Former ANC guard seeking amnesty admits that he lied about application, hearing told

By SIMON ZWANE

A former ANC guard, seeking amnesty for the 1994 Shell House massacre, admitted yesterday that he had lied when he testified that his application bore his own words.

Stephen Moolman acknowledged under cross-examination in Johannesburg that he had re-

ferred to the application of fellow applicant Veli Lale while filling out his amnesty application form. He did this because he did not understand English very well and had agreed with what Lale had written.

Earlier Moolman had told advocate Danne Dorfling, representing victims and their families, that he had used his

own words while filling out the application Dorfling drew his attention to two paragraphs where he used exactly the same words as Lale

Dorfling said Moolman was "untruthful as to the content" of his application, and that his evidence was a fabrication.

Moolman also admitted that he was incorrect last year when

he told the inquest into the massacre that Modise Molefe, another applicant, was the first one to fire at attacking Inkatha Freedom Party supporters from the balcony of the ANC headquarters.

Thirteen former ANC bodyguards have applied for amnesty for the shooting incident which left about eight people

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dead outside Shell House.

Eight of the applicants have testified since last week, and they all insisted that the marchers had attacked the ANC before they decided to fire at them in defence of the building and leaders who were inside.

In his evidence yesterday, Lale, who is currently employed by the National Intelli-

gence Agency, said he believed a civil war would have broken out if the marchers had stormed the building.

IFP members, who attended in huge numbers and disrupted the hearing twice last week, seem to have lost interest. A handful of them attended yesterday, but police continued to maintain a visible presence



Mr Marole Moolman testified before the Truth and Reconciliation Commission amnesty committee yesterday that he had fired at the Inkatha Freedom Party marchers on March 28 1994 because they had attempted to occupy Shell House. Moolman and 12 other ANC guards are seeking amnesty for the incident in which nine people were killed. PIC LEN KUMALO

ANC man denies excessive force

By Russel Molefe

A FORMER African National Congress security guard told the Truth and Reconciliation Commission amnesty hearing yesterday that he did not believe he had exceeded the bounds of self-defence when he fired on Inkatha Freedom Party marchers in 1994.

Mr Marole Moolman shot at a group of IFP marchers who attempted to attack Shell House on March 28 1994 during their protest against the first general election. Nine people were killed outside the ANC headquarters that day.

(252) Sowetan 19/5/98
Moolman is together with 12 other former ANC security personnel applying for amnesty in relation to the incident.

He told the amnesty committee at the Central Methodist Church in Johannesburg that he was advised by his legal representatives to apply for amnesty because "a court of law may reach a conclusion that he might have exceeded the bounds of self-defence".

Had the IFP marchers been successful in occupying Shell House, Moolman said, the elections would have been disrupted and it would have brought chaos to the country.

"I saw many people dying in the struggle for freedom. I would not have allowed seeing what I have fought for for many years go up in smoke," Moolman said.

He said he was patrolling on the parapet of Shell House with Mr Veli Liale and Mr Modise "Jaguar" Molefe when the marchers fired at the building. He fired a single shot at the marchers before Mr Neo Potsane took a firearm from him and fired too.

Liale told the committee that it was known that there would be violence every time the IFP supporters marched.

Lawyer for apartheid's torturers blames leaders

DD 19/5/98 (252)

PORT ELIZABETH — Seven former security policemen who abducted, tortured and murdered the activists known as the Pebco Three deserved amnesty because it was apartheid-era politicians like Adriaan Vlok, General Magnus Malan and PW Botha, and not their soldiers, who were responsible for the war in SA, the truth commission heard yesterday

Kobus Booyens made this submission to the commission's amnesty committee when it resumed its hearing in New Brighton, Port Elizabeth

Booyens is a lawyer representing some of the amnesty applicants responsible for abducting, torturing and murdering the three activists from the Port Elizabeth Black Civics Organisation (Pebco) 13 years ago

He said that political leaders supplied the fuel for the conflict which was fought by soldiers

The applicants had been politically motivated in their actions, Booyens argued. These deeds were committed at a time when there was a bitter battle between the civics organisation

and the security police

Convicted murderer Gideon Nieuwoudt, Gerhardus Lotz, Herman du Plessis, Sakkie van Zyl, Harold Snyman, Cornelius Beslaar and Johannes Koole and askari (a turned freedom fighter) Peter Mogai are applying for amnesty

Booyens submitted that although the security policemen had given a version of events that was in conflict with that given by Mogai, the committee could not say his clients' version was false beyond any reasonable doubt

Murdered activists, Qaqwuli Godolozu, Siphon Hashe and Champion Galela — known as the Pebco Three — were abducted from the Port Elizabeth Airport on May 8, 1985. They were tortured and murdered at Post Chalmers, a disused police station outside Cradock

Testimony to the truth commission was that a police informer lured the Pebco Three to the airport on the pretext that they would meet a British diplomat who would give Pebco financial assistance — Sapa

Omar eases deadline for TRC report to Mandela

JOHN YELD

ON THE TRUTH COMMISSION

(252)
AUG 19/5/98
A three-month extension to the date on which the Truth Commission must submit its report to President Mandela is "manna from heaven", said the body's chairperson Archbishop Tutu today.

He was commenting on yesterday's announcement by Justice Minister Dullah Omar that the Cabinet had accepted draft amendments to the commission's founding act.

In terms of these amendments - still to be accepted by Parliament - the commission now must submit its report to President Mandela by October 31, instead of July 31.

This was the date proposed by the commission during its earlier request for an extension to its original two-year mandate.

The report handed to the president will be a "penultimate" version, as the commission's final report will be completed only once all the amnesty applications have been processed, some time next year.

Archbishop Tutu said that all the commission's work - apart from the amnesty hearings - would still cease on June 30 as planned, and that the commissioners would consider and adopt the penultimate version of the report by July 31.

During the next two months - until September 30 - the commission's researchers would continue editing the report to ensure it was 100% accurate.

By the beginning of October, it had to be in "camera-ready" form for the government printer.

"The research department is especially concerned that the report contains an accurate summary of the circumstances of every person declared a victim of a gross violation of human rights in terms of the law," said Archbishop Tutu.

"And since the commission has collected about 21 000 statements from people claiming to be victims, this will be an enormous task."

Charles Villa-Vicencio, the professor who heads the research department, said: "I think this (the 21 000 statements) makes the work in which the commission is engaged probably the largest social-scientific survey of human rights in the world."

Now Omar criticises judges

(252) Star 20/5/98

SAPA, POLITICAL STAFF

Cape Town - Justice Minister Dullah Omar and the Law Society became the latest critics of the judiciary yesterday

Omar told the National Assembly that certain judges were threatening the independence of the judiciary, because they were still steeped in apartheid

His comments follow weekend statements by ANC Deputy President Jacob Zuma that the judicial system needed to be transformed.

Democratic Party MP Douglas Gibson said during debate on the justice budget that the rule of law was not safe while the ANC increasingly attacked the judiciary.

He said no one was above criticism "But it is not acceptable that people in the ruling party, who should be setting an example of support for the independence of the judiciary, are actively undermining it and therefore the rule of law"

The Inkatha Freedom Party criticised the ANC for its "growing signs of intolerance and disrespect" for the judiciary

The Law Society said that although the independence of the judiciary was beyond question, it found it untenable that Judge William de Villiers had not given reasons for his decision in the case between the South African Rugby Football Union and President Mandela

De Villiers this month ruled in favour of Sarfu's court application to have the Browde commission of inquiry into rugby set aside

It also criticised a petition by 14 KwaZulu Natal judges opposing the appointment of Judge Vuka Tshabalala as the provincial deputy judge-president.

Zuma said the decision in the Sarfu case, the petition by local judges, and the acquittal on April 30 of former ANC strongman Sifiso Nkabinde on 16 murder charges, indicated the resistance to transformation by some of the country's judges

The NP said it believed the procession of ANC leaders who were consistently attacking the judiciary were doing the country's young democracy a great disservice.

Vlakplaas killer condemned as a rank opportunist (252)

Port Elizabeth - Former Vlakplaas death agent and self-confessed multi-murderer Joe Mamasela was usually paid for what he did, and he would do anything for money, the Truth and Reconciliation Commission was told yesterday.

Mamasela would change his beliefs, viewpoints and religious convictions to suit himself, legal representatives for seven former security policemen said.

They are applying for amnesty before the TRC's amnesty committee in New Brighton, Port Elizabeth, for the abduction, torture and murder 13 years ago of three activists from the Port Elizabeth Black Civics Organisation (Pebco).

The former policemen are convicted Motherwell bomber and self-confessed murderer Gideon Nieuwoudt, Sergeant Gerhardus Lotz, Colonel Herman du Plessis, Captain Johan 'Sakkie' van Zyl, Colonel Harold Snyman, Warrant-Officer Cornelius Beeslaar and Johannes Koole. Also applying for amnesty is askari (turned ANC member) Piet Mogai.

They allegedly kidnapped Qaqawuli Godolozzi, Sipho Hashe and Champion Galela from Port Elizabeth airport on May 8 1985 and drove them to Post Chalmers, outside Cra-dock.

They allegedly tortured and murdered the three the next day, burnt their bodies and threw the ashes into the Fish River.

Earlier Mamasela gave a graphic account of the torture and killing.

Representing Snyman, Du Plessis, Nieuwoudt, Van Zyl and Lotz, advocate Kobus Booyens said the applicants had applied for amnesty for abduction and murder, and not for the assault.

Booyens said it was clear from the evidence that Pebco was a political organisation vehemently opposed to the then government, and bent on the destruction of its structures and its mode of governing the country.

"There can be no doubt that the only motive for the killing of the victims, who were part of the leadership element of Pebco, was aimed directly at them in this capacity.

"The motive of the applicants was to stop, disrupt or disorganise the activities of Pebco and to make it less effective in its battle against the government," he said.

Booyens added it was clear from their statements that it was the political leaders of the day, such as then law and order minister Adriaan Vlok, former defence minister General Magnus Malan and former state president P W Botha, who supplied the fuel and incentive for the frontline foot soldiers to fight their apartheid wars.

It was seldom the soldiers themselves who wanted war.

He said it would also be dangerous to rely on the evidence of Mamasela, who "behaved on some occasions as if he were a politician seeking votes".

Booyens said the applicants had made full disclosure and should be granted amnesty.

Advocate Roelof du Plessis, for Beeslaar, said the applicant sought amnesty for kicking Hashe. He never suspected that the Pebco Three would be killed. Du Plessis said Beeslaar's evidence stood uncontradicted and should be accepted because he had made a full disclosure.

A Lamey, for Koole and Mogai, who are seeking amnesty for kidnapping and assault, said the two men had stated that the Pebco Three were still alive when they left Post Chalmers.

Mogai was an impressive witness, never contradicted himself and gave a logical, detailed and clear narration of the events as he recalled them.

Lamey asked that the two be granted amnesty.

Attorney Mpumelelo Nyoka, for the widows of the Pebco Three, argued that Snyman, Du Plessis, Van Zyl, Nieuwoudt, Beeslaar and Lotz had failed to give full disclosure as required.

He said the applicants had denied testimony from Koole, Mogai and Mamasela that the Pebco Three were savagely assaulted.

There was no exact evidence stating that the Pebco Three had committed political acts to justify "the illegal death warrants".

Nyoka said amnesty should not be granted. - Sapa

TRC suffers from overload

By Claire Keeton
Feature Writer

THE desks of commissioners of the Truth and Reconciliation Commission (TRC) at the Johannesburg office are piled high with documents – and the individuals responsible for this work look equally weighed down.

No doubt the commissioners at the other offices in Durban, Cape Town and East London are as overloaded, since the TRC has just two months to complete its mandate.

One of the commission's priorities is to conclude its findings on whether thousands of people – who made statements or testified before the TRC about gross human rights violations – are declared victims or not.

This process is going smoothly except in KwaZulu-Natal, which was overwhelmed by last-minute applications. The Durban office received 3 000 applications in a fortnight in December, making its total number of applications around 14 000.

"We have more statements than all the other regions. It is very hectic but we should finish by the end of June," said Durban-based commissioner Richard Lyster. Lyster and Human Rights Violations (HRV) committee member Virginia Geabashi are the only two left there working on findings.

However, commissioners elsewhere are assisting them – around 1 200 statements were transferred from Durban to other offices last week. There are now five commissioners and three committee members concentrating on findings, each processing about 150 cases a week.

External corroboration

For every case the commissioner must read the file, including the investigative report and any external corroboration of the evidence. The commissioner then decides if the person has suffered a "gross human rights violation", as defined by the Promotion of National Unity and Reconciliation Act.

Clear cases of gross violations are those involving killing, abduction or torture. The HRV committee decided

will find the R&R form complicated because of the regulations around government payouts (which are beyond TRC control). Thousands of victims in areas such as rural KwaZulu-Natal will struggle to complete their forms without delay.

The final reparations measures will be outlined in the TRC Report which will be submitted to President Nelson Mandela by July 31.

The report – to be discussed at a TRC meeting in Cape Town this week – is likely to be a "provisional" or "interim" report until all amnesty applications have been heard and added to the report as they will affect the overall picture of violations.

Individual accounts

"The TRC has such an overload of information it is difficult to decide what we want to say, what people want to read, what is new and what to leave out," Sooka said.

"Human rights violations often left victims confused and what is important is contextualising their individual accounts."

She said the report would be "analysing why people did what they did" and integrating people's own experiences with secondary literature, as well as the submissions of political parties.

Work on the provisional report is said to be progressing well, with national themes linking the four regional reports. For instance, the role of Third Force in fomenting violence is a key theme.

"Third Force strategy affected all regions and included so many things, like organisational violence and vigilantism," said Sooka.

The TRC Report is divided into time periods, for example 1960-1975. "We must have a narrative history that integrates victim and perpetrator accounts," said Sooka.

There will be a TRC Report meeting before the TRC meeting this week, and the research department will take back recommendations from this meeting for future work. The TRC will also publish a popular version of the report in all 11 languages.

Journalist 20/5/98 (252)



Commissioner Yasmin Sooka ... the TRC will submit a report to President Nelson Mandela by July 31.
PIC CLAIRE KEETON

that the category of "severe ill-treatment" would cover less clear patterns of violence, like burning of people's homes (not businesses) or forcing people to flee their homes.

"In the Seven Days War (in KwaZulu-Natal's Midlands), 30 000 people became refugees. They are victims even though the Act does not specify this," Lyster explained.

HRV committee deputy chair Yasmin Sooka said "We try to be as inclusive as possible in victim findings. When a pattern has been established with certain cases, we look at an individual's case and see if it fits".

Other patterns are witch-burnings which were politically inspired, feuding between chiefs and killings during land removals.

Every person receives a "findings report", which includes a five-line summary of their case. The commis-

sioner's finding is counter-signed by another commissioner, before the person is notified about the decision. Sooka and commissioner Mary Burton are carefully examining all negative findings in which a person is not recognised as a victim.

Those people who are found to be victims will have their names and many of their stories acknowledged in one of the four volumes of the TRC's Report, a volume to be dedicated to victims.

"The number (of victim findings) is increasing daily and we are making sure victims receive reparation packs," said Sooka.

This pack includes a letter for victims informing them of their finding as well as a reparation form which must be completed, and a self-addressed envelope to the President's Fund which will pay out limited 'interim repara-

Another problem is that victims

tions"

Victims in urgent need of services, as a result of extreme violations, will receive interim reparations over the next few months until the Government decides on "final reparations measures".

The first 600 packs were sent earlier this month, followed by a batch of around 2 000 and a third batch last Friday. The mailed batches include a covering letter by reparations and rehabilitation (R & R) committee chairperson Hlangwe Mkhize, appealing to victims to collect their pack.

But Sooka said "We need to be proactive in reaching people since many people in South Africa do not have formal addresses. Non-government organisations and the faith community are ready to use their infrastructure to access people found to be victims".

Another problem is that victims

Judiciary under government spotlight

(157)

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and attitudes. Many of the old order, however, do not support that old order and serve the new order loyally," Omar said

Despite problems with transformation a large number of black people and women had been appointed judges, chief magistrates and senior magistrates, but more needed to be done

Omar said transformation meant more than creating representative institutions. It required developing an understanding of the new constitutional order and "sensitivity to the structure and ethos of the Constitution and its Bill of Rights", as well as developing a "culture of service which is people orientated and friendly to those they serve"

Omar said the boundaries of magisterial districts should be re-demarcated to undo "the ravages of apartheid"

The deputy president of the ANC Jacob Zuma has also called for the transformation of the judicial system

He recently said the matter of the 14 Natal judges, the Sarfu case, and the recent acquittal of SifisoNkabinde on 16 murder charges showed the resistance to transformation by some of the country's judges

ANDRE KOOPMAN

Recent developments in our judiciary have sparked a government rethink on the High Court and the judges who sit on its benches.

A PARTHEID-ERA judges are threatening the independence of the judiciary and undermining the respect it has to command, Justice Minister Dullah Omar said yesterday

In a measured speech to the National Assembly, Omar said judges "rooted in the old order" would have to go. He called urgently for more black judges

The unrepresentative nature of the bench and other organs of justice resulted in "antagonism and negative attitudes" towards the courts in the majority of the population, he said

Speaking during his budget vote, Omar said: "There are those who, despite taking the oath of allegiance to the new constitution, have both their feet in the old order. Their attitudes and actions undermine the independence of

the judiciary"

He did not refer directly to the recent upset in the KwaZulu-Natal judiciary when 14 white judges signed a petition opposing the appointment of the first black Deputy Judge Vuka Tshabala, but he did send a strong message that the situation was unacceptable.

At the time, presidential spokesman Parks Mankahlana said President Nelson Mandela was "not prepared to countenance any form of racism, and if people think he can be persuaded otherwise they are wasting time. The bench cannot continue to be as white as it is"

Omar's unequivocal statements in the National Assembly are especially noteworthy, since he has managed to effect significant transformation in his own department. He sent a clear message to the Judicial Services Commission about the pressing need for black judges.

Omar noted that the courts, attorneys-general's offices, state attorneys' offices, prosecution services generally and masters' offices remained unrepresentative. "Except for the Chief Justice, all the judges of the Supreme Court of appeal are white males. Of all the judges president, only one is black — appointed

during the past year," Omar said.

It was "imperative" that the judicial service commission and the magistrates commission should "consciously and deliberately" transform the courts, "in the shortest possible time", Omar said

The Law Society of South Africa yesterday highlighted the unacceptable actions of some judges. The commission said it found it untenable that Judge William de Villiers had not given reasons for his decision in (Sarfu) court case, when he found for Sarfu on the issue of whether Mandela had applied his mind in appointing a commission

The Law Society criticised the actions of the 14 KwaZulu-Natal judges saying: "The law society deplores any attempt by serving judges to try to influence the independence in decision making by the JSC (judicial services commission)."

Dealing with public prosecutors in his speech Omar said: "One of the urgent tasks facing the national director of public prosecutions when appointed, will also be to ensure that similar transformation takes place in the prosecution services"

"The old order continues to live within the new, both in terms of personnel

and attitudes. Many of the old order, however, do not support that old order and serve the new order loyally," Omar said

Despite problems with transformation a large number of black people and women had been appointed judges, chief magistrates and senior magistrates, but more needed to be done

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The deputy president of the ANC Jacob Zuma has also called for the transformation of the judicial system

He recently said the matter of the 14 Natal judges, the Sarfu case, and the recent acquittal of SifisoNkabinde on 16 murder charges showed the resistance to transformation by some of the country's judges

Truth report gets deadline extension

CAPE TOWN — The deadline for completion of the truth commission's final report would be extended by three months if Parliament approved a decision taken by the cabinet last week, commission chairman Archbishop Desmond Tutu said yesterday.

Addressing a news conference at the commission's Cape Town offices, he said cabinet had agreed that the report could be handed to President Nelson Mandela on October 31, not on July 31 as legislation laid down.

He said the commission's research department would present it with a "penultimate report" at the end of July and that the extra three months would be used only to edit and produce the document, which was expected to run to 2 000 pages.

All other commission work except for report writing and amnesty proceedings would end by June 30.

Research director Charles Villa-Vicencio said the original idea was that after the commission shut down there would be a three-month period in which to write the report. "The enormous amount of work has had us working through this period of three months, so what we are requesting is time where we can read the report carefully and do necessary editorial work to ensure that when it is handed to the president it is in a final form."

The final report would be available at the end of September, giving government printers time to have it available for final adoption by the end of October, Villa-Vicencio said — Sapa

(252) DD 20/5/98

Omar launches attack on 'old order' judges

Wyndham Hartley

CAPE TOWN — Justice Minister Dullah Omar chose the occasion of his budget vote in the national assembly yesterday to become the latest African National Congress (ANC) official to launch a stinging attack on members of the judiciary for being locked into the old apartheid order.

"Omar, who himself came under vigorous attack and at least one demand by opposition speakers that he be sacked, said there were judges who, despite having taken the oath of allegiance to the new constitution, 'have both feet in the old order'."

He said these judges undermined the independence of the judiciary and brought in-

crease pressure to bear on their colleagues who did not share their views. "It is imperative that both the judicial service commission and the magistrate's commission must consciously and deliberately embark on a programme which will transform the courts so as to make them representative in the shortest possible period of time."

The most strident attack on Omar came from Inkatha Freedom Party justice spokesman Koos van der Merwe who called on President Nelson Mandela to fire Omar and to disband the truth commission.

He said Omar had shown he could not separate his profile as an ANC activist from that of a minister of state, while the truth commission was an ANC instrument. An example

of Omar confusing his roles were his embrace of former ANC Western Cape leader Dr Allan Boesak on the latter's return to SA to face criminal charges.

Freedom Front MP Corne Mulder accused Omar of failing to repudiate ANC deputy president Jacob Zuma's criticism of the judiciary last weekend and said that his speech was a more sophisticated version of Zuma's attacks on certain white judges and the setting in motion of a campaign to get rid of them.

Democratic Party MP Douglas Gibson charged that in the face of other ANC attacks on the independence of the judiciary, Omar had remained silent and had not rebuked his colleagues for "intemperate, ill-considered and vicious attacks". Instead of focusing on

the inadequate state case in the acquittal of Sifiso Nkabinde, ANC officials had chosen to denigrate the judge.

Taryn Lamberti reports that the National Association of Democratic Lawyers (Nadel) yesterday called for an informed national debate by all stakeholders on the independence of the judiciary.

Nadel general secretary Vincent Saldanha said the lashing out by politicians on judges who made rulings they found unpalatable was "not a helpful way of handling the matter."

The Law Society of SA co-chairmen Esmé du Plessis and Willie Serrh said in a joint statement that more lawyers from disadvantaged backgrounds, especially women, needed to be appointed to the bench.

(257) 20 20/17/98

Pace hots up for Machel crash probe

Claims on 'hit-squad plot'

ARC 20/5/98 (252)

JOHN YELD
ON THE TRUTH COMMISSION

Several more people approached the Truth Commission this week with information about the controversial aircraft crash in 1986 that killed Mozambican president Samora Machel.

This follows the announcement on Monday that the commission will hold a special inquiry early next month to probe new claims that the then SA Defence Force used a mobile radio beacon to lure the plane off course into mountains in South African territory near the Swaziland border.

The plot was allegedly engineered

by South African apartheid-era generals working in conjunction with senior military intelligence counterparts in Malawi and Mozambique.

Some of the claims have emerged after a nine-month investigation by Johannesburg radio journalist Debra Patta who uncovered information that the air traffic controller on duty at Maputo airport the night President Machel died was paid R1,5-million to switch off the airport's radio beacon.

Details of her investigation were broadcast today.

Ms Patta, who has been co-operating with TRC investigators and the special team of Gauteng Attorney-General Jan D'Oliveira, which is investigating apartheid-era "hit

squad" activities, said she had uncovered the names of many people involved.

Truth Commission spokeswoman Christelle Terreblanche confirmed that Ms Patta had been co-operating with their investigators and had supplied information and statements.

"And people are still coming forward to the commission with information - there have been quite a lot since Monday," she said today.

Ms Terreblanche refused to name the former military intelligence operative, two other former SADF members and a former Mozambican official who have been invited to testify at the commission's closed inquiry scheduled for June 4.

We
Zan

ums were now more aware of security requirements

On Monday, a mock theft of artefacts on Metrorail's Edutrain sur-

brate International Museum Day
Pupils, teachers, provincial Cultural Affairs Minister Kobus Meiring, members of the Directorate for

Bill to hit crime bosses

CLIVE SAWYER

POLITICAL CORRESPONDENT

ART 20/5/98

African National Congress MP Willie Hofmeyr says he is confident the drastic anti-gang measures in proposed Justice Ministry legislation will be upheld by the courts.

Mr Hofmeyr, an MP from the Western Cape and member of the National Assembly justice committee, was speaking in yesterday's debate on Minister of Justice Dullah Omar's budget vote.

Mr Omar recently announced proposed laws to widen the capacity to seize criminals' assets by civil action, and to crack down on membership of street gangs

"Clearly one will have to look carefully at whether they comply with our constitution," Mr Hofmeyr said.

(272) 27 (272)

Mr Hofmeyr noted that Parliament had passed three tough measures against crime

These were the new bail law which made it almost impossible for those charged with serious offences such as rapes, murders and robberies to get bail, legislation for heavy minimum sentences for serious offences, and tougher laws on parole

Mr Hofmeyr said the Organised Crime Bill would allow the state to seize criminal assets through a civil action as was the case in the United States and Australia.

"This law helps to fight crime in two ways: it helps us at least to hit at the pockets of the crime bosses and to make crime less attractive.

"But it also makes it more difficult for them to operate by taking away the property they use, such as houses and cars," Mr Hofmeyr said.

Relief at hand for overloaded lower courts in Western Cape

ASHLEY SMITH
STAFF REPORTER

The overburdened Western Cape lower courts are to get 28 new prosecutors at the end of the month.

Responding to a Cape Argus report about the astronomical case loads in the Mitchell's Plain magistrates and Cape Town regional courts, Western Cape regional head of justice Hishaam Mohammed said plans were in place to deal with the crisis

ARG 21/5/98
"About a week ago, we decided to appoint 28 new prosecutors in the Western Cape. Four will go to Mitchell's Plain, while six have been appointed to Cape Town.

Other courts to get more prosecutors are Wynberg, Atlantis, Bellville, Kuils River, George, Hermanus and Vredenburg.

At the end of April, about 2 572 cases were outstanding in Mitchell's Plain, a backlog of about 200 cases a court.

The situation in the Cape Town

Regional Court, with a backlog of more than 1 000 cases, was also a reason for appointing more prosecutors, said Mr Mohammed.

About three weeks ago, 50 detectives and prosecutors had extensive training in the new bail legislation which was expected to come into effect next month, he said. "These prosecutors are well equipped to deal with the case loads. And, after all, a crisis is only a crisis if there are no measures to deal with it," said Mr Mohammed.

ANALYSIS

Will pillow talk be this man's undoing?

THE question that will be answered in the Pretoria High Court on June 1 is whether pillow talk achieved what neither an inquiry nor an inquest was able to do — link former policeman Ferdi Barnard beyond reasonable doubt to the killing of Wits University lecturer David Webster.

For the past four months, Barnard, Civil Co-operation Bureau (CCB) agent and convicted murderer, has been the focus of a trial in which, for the first time, details of his nefarious dealings in the underworld and role as an alleged state hitman have emerged.

In testimony before the Harms commission of inquiry in 1989 and the 1993 inquest into Webster's assassination, Barnard denied any involvement in criminal activities. Earlier this year, he pleaded not guilty to 34 charges before Judge Johan Els.

However, unlike before when Barnard's allies kept their mouths shut, the Pretoria High Court has now heard the detailed testimony of a parade of unsavoury characters including prostitutes, drug addicts and erstwhile state spies.

The picture painted by witnesses was one of amorality, decadence and ruthless despatch of those who threatened "state security" or Barnard's allegedly criminal private enterprises.

Last August, following a year-long investigation, Barnard was arrested by Transvaal attorney-general Jan D'Ohveira's special investigation team. This set the stage for a group of women who have played pivotal roles in his life to share with the world what they claim to have known for years about Barnard's secret life.

Apart from their involvement with Barnard, the women who testified against him are linked by a number of common denominators, including a strong likeness to one another in the bottle blonde image he appears to have favoured.

In addition, two of them made their living on the streets of Johannesburg and shared Barnard's proclivity for hard drugs. Two of them bore him children, one married him, two were regularly beaten by the man they all feared and at least three of them aided and abetted him in his activities.

But what binds Barnard's women inextricably to one another is that he told them things — information they kept to themselves until called to the witness stand over the past few months.

State prosecutor Anton Ackermann, SC, based his closing argument on these revelations more than on all other evidence presented.

However, defence advocate Faan Coetzee, in his closing argument on Friday, said Barnard had "stepped on too many toes" and witnesses who incriminated him "all had personal rea-

Former policeman Ferdi Barnard's ex-lovers lined up in court to testify against the man accused of murdering academic David Webster. Pretoria Bureau Chief **Stephané Bothma** looks at their evidence.

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(2/92)



BARNARD

sons for turning against him"

"Although it is unlikely that the witnesses would have come together in a monumental effort to incriminate my client, it should be remembered that each witness had a personal axe to grind with him," Coetzee argued.

Of the five women who testified against him, only one — Julie Wilken — was never sexually involved with Barnard. However, she was intimately acquainted with him through her nine-year relationship with his one-time best friend and fellow CCB operative, Eugene Riley.

When Riley died of a gunshot wound in their Brixton home in January 1994, Wilken suspected that Barnard had a hand in his death, though police treated it as suicide.

Once, Wilken told the court, she heard Barnard and Riley discuss how Webster "had to fall".

She testified that she knew the two men had beaten to death an associate, drug dealer Mark Francis, with a baseball bat in 1991.

Amore Badenhorst, 29, Barnard's former lover and mother of his three-

year-old daughter, also said she knew about the Francis murder. Badenhorst, a former prostitute, said she was terrified of Barnard and all his friends but nevertheless still loved him "and always will".

As an active participant, Badenhorst was able to provide the court with details of the confidence tricks allegedly orchestrated by Barnard and notorious gangster Corrie Goosen, who died in a high-speed motorcycle crash near Port Elizabeth a year ago.

Her five-year liaison with Barnard was stormy. When times were good, he showered her with jewellery, but in the bad times, he beat her severely.

Badenhorst was the first of almost a dozen witnesses to tell the court Barnard had told her he had killed Webster, shot from a car driven by Calla Botha, another CCB agent. Later, she said, Barnard showed her where he had thrown the gun into a Nylstroom dam.

Another former prostitute, Carol Anne Human, told the court that during her five-month affair with Barnard, she worked for him as a Mil-

itary Intelligence agent, gleaned information about African National Congress members with whom she had sex. Barnard kept her supplied with drugs and occasionally paid her.

She knew about his involvement in the Francis murder, she testified, and had once secreted a sub-machinegun for Barnard in her flat.

Maryna Language, who was married to Barnard for three years until he was jailed in the mid-1980s for murdering two drug dealers while still a policeman, said she had always known he was a "CCB assassin" and had seen a "hit list" containing the names of Webster, Windhoek advocate Anton Lubowski, slain SA Communist Party leader Chris Han, Archbishop Desmond Tutu and Winnie Madikizela-Mandela.

According to Language, Barnard kept a badly made blonde wig at her house, and, she told the court, the identikit of one of the Webster murder suspects bore a strong resemblance to her former husband wearing the wig.

She said Barnard had been paid a R90 000 "production bonus" for killing Webster.

Unlike some of Barnard's other women, Language said he would not harm her. She knew him as a "wonderful, caring man".

Brenda Milne, who shared Barnard's life for nine years, saw a different side of him. She told the court he had threatened to kill her and during their last two years together, she feared for her life and that of their young son. She began keeping a secret diary of his activities, including photographs of weapons he stored at home.

Of the five women, Milne was perhaps the most important to the state's case. She testified that not only had she accompanied Barnard on surveillance trips to the Webster house, but that on the day of the murder, Barnard borrowed her car, a white Ford Laser, and on returning home told her he had shot the activist.

Milne said he had "jumped the gun" and acted without direct CCB orders "because he wanted to show them what it took to be a hitman, and gain favour so he could rise in the CCB ranks".

After years of abuse, Milne told the court, Barnard's "addiction to drugs and pornography" and his criminal activities finally got the better of her and in 1996 she left him, abandoning a lifestyle which included an expensive car, access to money and financial support for her mother.

Now that the ordeal of testifying against the man they feared is over, the five women must start rebuilding their lives. Without the safety net of a witness protection programme or the financial and questionable emotional support they received from Barnard, it will not be an easy task.

Advocates to challenge law on their free market rights

Jonny Steinberg

BD 21/5/98

(252)

THE Constitutional Court will hear today that the clause of the Admission of Advocates Act which bars advocates from accepting briefs directly from the public is denying independent advocates the right to free economic activity.

The applicants, J de Freitas and the Independent Association of Advocates of South Africa, will argue that this makes the legal system inaccessible to the public.

The applicants are appealing against a decision of the Natal Division of the then supreme court, which found that De Freitas had acted unprofessionally in accepting instructions from members of the public without the intervention of an attorney.

Today's case reawakens a long-standing dispute between independent and bar association advocates over access to the court. The applicants will argue that the Society of Advocates of Natal, the respondent in the case, is a voluntary association, and that its rule against accepting briefings from

the public should not be given jurisdiction over advocates who are not its members.

The court will decide whether the case should be heard in the Appeal Court before going to the Constitutional Court.

The applicant's heads of argument controversially imply that the Appeal Court, whose members are drawn from the societies whose status is under question, is unlikely to be an unbiased judge in the matter. "The appellants submit that with respect, the composition of the bench of the Constitutional Court will be more amenable than the bench of the supreme court to the aspirations, dreams and hopes of about 300 members of the (Independent Association of Advocates of SA) and the public at large ...

"The Constitutional Court will take cognisance of the move towards the disappearance of the distinction between attorneys and advocates thereby rendering the question of whether the advocacy profession be of a referral nature or not, quite superfluous."

'I cannot forgive ANC guards'

ED 22/5/98 (252)

AN INKATHA y member who was crippled by gunfire during the march on Shell House in 1994 told the truth commission yesterday that he could never forgive the African National Congress (ANC) guards who shot him

Silwanepu Alfred Mapanga, 32, who no longer has the use of his arms or legs, told the commission's amnesty committee in Johannesburg that he believed he was shot intentionally by the ANC guards

Mapanga was struck by bullets during the march on May 28 1994 when thousands of Zulu protesters gathered outside the ANC's Shell House headquarters

Eleven ANC guards who have admitted opening fire on the crowd have applied for amnesty for the shooting, which resulted in the death of eight marchers and injuries to scores more.

When asked if he could forgive the ANC guards, he replied in an agitated voice: "No, no, no I can find no place

in my heart to forgive them I have absolutely no peace with them"

"It is no secret that it was intentional, it was not a mistake (the shooting) They could have prevented it in the first place"

Mapanga said he had lived in the Nancefield hostel in Soweto and had worked as a flower seller, but was now unable to support himself

Another witness, Agnes Ntombela, told the hearing her son Raphael was killed in the shooting

She was overwhelmed with emotion when a photograph of her son was produced

She said she had listened to the proceedings but could not follow them

"I listen to what they are saying and I do not know what is true and what is not true"

"All I know is that I lost a son, and I do not know if I can forget that"

The hearing continues today — Sapa

MP ends truth body boycott

(252)

Farouk Chothia

DD 22/5/98

CAPE TOWN — Inkatha Freedom Party (IFP) KwaZulu-Natal MP Philip Powell ended his boycott of the truth commission yesterday after facing the threat of criminal prosecution for failing to heed a subpoena to appear before the body.

Powell had last year vowed to defy the subpoena, and described the commission as "Stalin's show trials".

He said yesterday he had no choice but to appear before the commission because deputy chairman Alex Boraine raised the prospect of being "chucked into jail".

Commissioner Richard Lyster said Powell, who had been a paramilitary trainer for the IFP, was "very reasonable and affable" at the closed-door hearing in Durban. He had co-operated, though he declined to answer some of the questions.

Powell said he was satisfied with the outcome of the hearing, but was convinced he was right to oppose the body.

It is understood Powell had defended his decision to provide paramilitary training to IFP supporters.

Judge president scolds lawyer

Jonny Steinberg

CONSTITUTIONAL Court president Judge Arthur Chaskalson scolded counsel for the Independent Association of Advocates yesterday for making a "grossly improper submission" to the court

Chaskalson was referring to a paragraph in counsel's heads of argument which implied that the Appeal Court was unlikely to make a fair decision on the constitutionality of the law barring advocates from taking briefs from the public

Counsel withdrew the submission and apologised to the court

The applicants, JA de Freitas and the association, claimed that the law against accepting briefs from the public violated the con-

stitutional right of independent advocates to free economic activity They also argued that the law forced independent advocates to submit to the rules of the bar council, a voluntary association to which independent advocates did not belong, violating the equality clause of the constitution.

Proceedings were dominated by the jurisdictional question of whether the applicants' case should be heard in the Constitutional Court or the Appeal Court

Recent Constitutional Court judgments suggest that the court wants to encourage lower levels of the judiciary to increase their constitutional workload

The court appears to be anxious to widen access to constitutional litigation and to develop

constitutional competence in the lower courts Judgment was reserved in this case.

The Constitutional Court also heard argument yesterday on a case brought by the widow of a motor accident victim, Hafiza Amod, and the Multilateral Motor Vehicle Accidents Fund, focusing on the retrospective application of constitutional judgments

Hafiza Amod was widowed in 1993, before the constitution was written The fund denied her payment on grounds that the common law did not recognise the legality of marriages under Muslim law

Judgment was also reserved in this case The court will decide whether retrospective application in this case will open up common law to review

BO 22/05/98

(252)

Controller 'bribed to activate beacon that lured Machel plane to its doom'

By CHARLENE SMITH

(252)

Jan 23/5/98

South African state security agents paid a junior Mozambican air traffic controller R1,5-million to activate a decoy signal from a false beacon which lured President Samora Machel's plane to its doom in mountains outside Nelspruit in 1986, the Truth Commission will be told.

Investigators in South Africa and Mozambique believe that the initial plan was that the aircraft would be downed by anti-aircraft fire and that the Mozambican rebel movement Renamo would claim responsibility.

Renamo was alerted to do this. However, the decoy beacon option was chosen because it would not compromise the rebels.

Evidence will also be heard by the TRC that the SAA Boeing 747, the Helderberg, could have been carrying rocket fuel being transported for the South African arms industry when it crashed off Mauritius in 1987, killing 159 people.

Investigators will suggest to the TRC that highly flammable ammonium perchlorate was being transported illegally on the plane. The substance was allegedly destined for the arms industry.

An intensely hot fire - which burnt in the aircraft's cargo hold despite the lack of oxygen - led to the destruction of the Helderberg, the TRC will be told.

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Controller 'bribed to activate beacon that lured Machel plane to its doom'

By CHARLENE SMITH

(252)

Star 27/5/98

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Chemical warfare programme probe

Star 23/5/98

(252)

Cape Town - The Truth and Reconciliation Commission will hold a special public hearing into SA's chemical and biological warfare (CBW) programme, TRC investigative unit head Dumisa Ntsebeza said yesterday

The hearing, from June 8 to 12, would focus on the SA Defence Force's CBW programme between 1981 and 1994

Matters to be explored include

- The institutional arrangements that made the programme possible,
- The front companies that were established to support it,
- Individual human rights violations that resulted from the programme,
- The involvement of the SADF in experimentation on humans and animals,
- The financial implications for the state;
- The involvement of South African scientific

and research institutions

Key witnesses will include, among others Dr Wouter Basson, of the former SADF's CBW programme; Dr Niel Knobel, the former surgeon-general; Dr Wynand Swanepoel, former MD of Roodeplaat Research Laboratories; Dr Brian Davey, currently head of the health and safety division of the Organisation for the Prevention of Chemical Warfare in The Hague, Professor C F G Hofmeyr, former head of the veterinary faculty at the University of Pretoria and adviser to the surgeon-general, and Dr Lothar Neethling, former head of forensics for the SA Police

Other witnesses' names will be withheld until they have been offered protection, Ntsebeza said.

The hearing will be held at the TRC offices in Adderley Street, Cape Town. - Sapa

TRC to hear of rocket fuel aboard the Helderberg

PAUL KIRK

This week the Truth and Reconciliation Commission began a probe into South Africa's worst air disaster - the 1987 crash of the Helderberg

The investigation will try to unravel the question the Margo Commission of Inquiry was never able to answer - what caused the fatal fire. One man, former Durban lecturer and medical biochemist David Klatzow, will be among the most eager to have the truth exposed. He is scheduled to start testifying on Monday, and what he says may well shake the aviation industry.

"The time for ducking and diving is over," said Mr Klatzow. "I want to know what was on the Helderberg and how it got on board."

Mr Klatzow said he now believed ammonia perchromate - a substance used in the manufacture of rocket fuel - to be the most likely cause of the fire. The Helderberg crash took place at a time when Russian MiGs were defeating South African Air Force planes and Armscor was unable to develop missiles capable of destroying them. According to Mr Klatzow, ammonia perchromate would have allowed Armscor to build a MiG-busting missile.

ARLT 22/5/98

Mr Klatzow also cites the nature of the fire as being a clue that rocket fuel caused it. "The fire began in the cargo hold and burned uncontrollably at temperatures hot enough to melt aluminium and scorch the paint on the exterior of the aircraft," he said. "In the cargo hold of an aircraft there is not enough oxygen to fuel any sort of a major fire. The fire would have exhausted its oxygen supply in a very short time."

But rocket fuel, designed to burn at very high altitudes, supplies its own oxygen as it burns. Mr Klatzow's theories are backed by a report written by international-

(252)

ly acclaimed fire expert Greg South heard and completely disregarded by the Margo Commission. Mr South's report has also been handed to the TRC. Along with Mr Klatzow's evidence, it represents a damning indictment against 83-year-old Judge Cecil Margo, who came to the conclusion that the Helderberg had not carried a secret cargo.

The Southard report states: "It is also my opinion the fire was caused by something in the cargo hold. This could have been either an incendiary device or a hazardous substance that had apparently not been declared."

Initial reports claimed the fire may have been started by fireworks carried in the hold, but this has already been scotched by the hearings. A sworn affidavit shown to Independent Newspapers and in Mr Klatzow's possession states that Eddie Bourhill, then chairman of the Committee for the Safe Carriage of Dangerous Cargoes, expressed "concern and indignation at reports that the Helderberg fire was due to any type of fireworks."

Captain Bourhill states in the affidavit that his own investigation pointed to a type of rocket fuel used to make missiles that was being car-

ried on the Helderberg for a destination somewhere along the coast of South Africa.

According to TRC spokesperson Christelle Terreblanche, the decision to reopen the inquiry came about after an appeal to the TRC by Friends of the Victims of the Helderberg. A total of 30 people will be called to testify before the TRC, including several former Armscor employees. The appeal labelled the disaster "cold blooded murder" and blamed the NP government, accusing it of using civilian aircraft to smuggle dangerous military cargoes into South Africa in a sanctions-busting bid.

Independent of Mr Klatzow, Independent Newspapers has become aware of at least two instances when SAA was indeed used to smuggle dangerous military contraband.

■ During the loading of a 1982 SAA flight from Tel Aviv airport, a crate burst open to reveal fully armed rockets. The rockets were labelled on the cargo manifest as empty fuel drop tanks for a Mirage jet fighter.

■ A 1987 SAA flight, halted at Athens airport by Greek police, was found to contain a large quantity of arms and ammunition bought illegally in Vienna. The arms were intended for the South African Police.

ANC calls off its opposition to TRC bid

Sapa *24/5/98*

(258)
THE African National Congress on Friday withdrew its opposition to a Truth and Reconciliation Commission application asking the High Court to declare void amnesties granted to 37 ANC members.

The TRC's application has been set down for a hearing in the Cape High Court next Friday when the Commission will also ask the court to order the amnesty applications be referred to the TRC's Amnesty Committee to be reconsidered.

A TRC spokesperson said "the ANC's decision to withdraw its opposition to our court application opens the way to a speedy resolution of the matter. It enables us to approach the High Court a full three weeks ahead of the date agreed to between the National Party, which has brought a court application similar to the TRC's, and the ANC."

However, the National Party may still delay resolution of the matter - it has given notice that it wants to intervene in the TRC's court application against the ANC. In court papers, the NP alleges that the ANC applications for amnesty "are not capable of being considered afresh." As a result the NP is opposing that part of the TRC application which asks the court to refer the amnesty applications back to the Amnesty Committee for reconsideration.

Demand for judge to quit legal aid body

CARMEL RICKARD

(252)

THE head of a special team set up to help transform the troubled Legal Aid Board says its chairman, Appeal Court Judge Chris Plewman, should quit now

Wits law professor Shadrack Gutto and his team, appointed by the Minister of Justice, Dullah Omar, handed their initial report to the minister this week, and asked Omar to call on the board to co-operate with the team

Their report included copies of correspondence with the judge in which he had refused to co-operate with the team or let his staff do so. Gutto said that the obstruction "should be sufficient grounds for calling for his immediate resignation"

He said judges "ought to be humble enough" to differentiate between when they performed a judicial function and when they performed administrative functions for a statutory body and had "to conduct themselves like any other community leader"

Calls for Plewman to go were made in April last year at a parliamentary hearing on the board

The board has been publicly accused of not properly doing its job — which is to ensure that as many people as possible got legal services when they appeared in court

The legal profession also criticised the board's inefficient payment system, saying lawyers waiting inordinately long to

be paid for their services. As a result, many lawyers were reluctant to accept legal aid work

Key players told the team of a high degree of dissatisfaction with the board directorate's management and administration of legal aid. Some legal aid clinics had not been paid and had been sued as they could not settle bills. Management was criticised for being untransparent despite the fact that, as an organ of state, it had to be publicly accountable

The team believed that most board members and staff did not share Plewman's attitude, and that it could establish a satisfactory working relationship with them

In his letter refusing to meet the team, Plewman said the time it proposed for discussions and to formulate recommendations was "quite unacceptable" — as was its suggestion that it decide when the board's recommendations should be finalised

Plewman said the board first wanted to discuss its response to the issues and hear from the minister

Until then, he said, "I do not propose to make myself or my board or the board's personnel available for discussions with you"

Gutto wrote back to the judge, expressing concern. He said key board members who'd attended a meeting at Omar's office at which the team was appointed had agreed to tell the board of these appointments at its meeting the next day

ST 24/6/98

Bid to put an end to kangaroo courts

Matanzima still applying bantustan laws

FORMER Bantustan despot Chief Kaiser Matanzima (pictured left) has been jailing his subjects in the new South Africa and a full bench of the Umtata High Court is to be asked to put a stop to it

ECN learned from legal sources this week that Matanzima's subjects are being jailed for up to three months for "insulting a chief", while rapists are walking away with light fines

This month Matanzima came out in open support of the National Party, but later denied it

Eastern Cape ANC spokesman Mcebisi Bata said on Friday that Matanzima was a lifelong "employee of apartheid"

In an astounding allegation, ECN was told that Matanzima and eight other tribal leaders in Transkei are still running the old tribal courts in terms of laws imposed at the height of Bantustan rule

Lawyers said the chiefs still had the power of regional courts. People sentenced by them go straight to state prisons. A lawyer said "They can jail people for up to 10 years"

No statistics are available about the number of people jailed by the tribal courts since the 1994 election. The courts apparently keep no records and their procedure is being questioned by human rights lawyers

On Thursday the human rights-focused Legal Resources Centre (LRC) will be bringing an appeal on behalf of two people, a Mr Mhleka and a Mr Fen, who were jailed by Matanzima's Western Thembuland Authority for three months each

A full bench of the Umtata High Court, led by Transkei's Judge President, will hear the application

Last year the LRC tried to entirely knock out the Transkei's Regional Authority Courts Act 13, of 1982, but failed. But they made crucial ground when, in a judgment released to

Human rights lawyers are preparing to fight the system by which Kaiser Matanzima is still jailing people under old tribal laws, reports ECN Weekend Service

ECN this week, Umtata Judge Russell Madlanga ruled that the section in the Transkei law which prevented an accused from being represented by a lawyer in the tribal courts, was unlawful. The judgment, made months ago, has not been made public

Judge Madlanga also set aside jail sentences imposed by the head of the Western Thembuland Regional Authority, Ngangomhlaba Matanzima's tribal court on May 11, 1995 at his Nyandeni Great Place Ngangomhlaba is KD Matanzima's nephew. The tribal court had found Nyandeni Bangindawow, Shoveka Sikhilongo and Jackson Mqebedu "guilty" of stock theft. They were jailed for three years

Ngangomhlaba Matanzima and six of his followers lost the matter and were ordered by the judge to pay costs

President Mandela's advocate in the Louis Luyt court saga, Wim Trengove, argued the case against Matanzima with the help of the director of Grahamstown's Legal Resources Centre, Clive Plasket

In a bizarre irony, one of the defendants

in the appeal was Justice Minister Dullah Omar, as well as the Nyanda, Qaukeni, Dalinyebo and Gcaleka Regional Authorities. Omar did not oppose the application. However, the Umtata State Attorney opposed the matter and instructed a senior counsel to file founding papers

Trengove argued that sections 2(1), 3(1) and 7(1) of the Regional Authority Courts Act 13 of 1982 (Transkei) were inconsistent with the Constitution and invalid because

- They cater only for Transkei citizens, a category of persons which no longer exist,
- They violate the requirement of section 96 (2) of the Constitution that the judiciary be independent and impartial,
- They violate the right of accused to a fair trial in terms of Section 25(3) and
- They create a system of unequal justice in violation of Section 8

Trengove argued that the convictions be set aside because "gross irregularities were committed in their trial", as

- No charge sheet was ever prepared,
- The accused were not informed of their right to be assisted in their defence by a guardian or a duly authorised relative,
- The nature of the charge as recorded on the charge sheet was not explained to the applicants,
- The provisions of the Stock Theft Act were not brought to the attention of and explained to the accused,
- The evidence of state witnesses was not recorded in question and answer form,
- No argument was allowed when the evidence had been given and no reasons were given for the conviction, and
- No opportunity was given to the accused to lead evidence or argue in mitigation

CP 24/5/98 (202)

Fivaz cleared by TRC probe

JOHN YELD

ON THE TRUTH COMMISSION

(252)
ARLT 25/5/98
A Truth Commission investigation has cleared police Commissioner George Fivaz of alleged gross human rights abuses while he was head of the narcotics unit in Bloemfontein in the 1970s and 1980s.

The allegations were made several months ago by two long-term prisoners at Grootvlei maximum security prison.

The prisoners claimed Commissioner Fivaz and police under his command planted drugs and ammunition on innocent people; helped murder several suspects and supplied information which led to the raid on Maseru by the apartheid-era SA Defence Force in 1982, in which African National Congress supporters and Lesotho civilians were killed.

The commission's special investigations head, Wilson Magadhla, looked into the allegations and concluded that there was no evidence implicating Commissioner Fivaz.

Truth Commission member Dumisa Ntsebeza said Mr. Magadhla had found "serious contradictions" in the prisoners' evidence.

New focus on ANC amnesty bids

2022
APR 25 / 5 / 198

JOHN YELD
ON THE TRUTH COMMISSION

The Truth Commission's amnesty committee is reprocessing the 37 amnesties granted to leading African National Congress members and will consider these with another 109 applications by ANC members.

This follows the commission's successful application to the High Court earlier this month for an order setting aside the decision last year to grant amnesty to the 37. Commissioner Denzil Potgieter, a member of the amnesty committee, which makes decisions autonomously, told a press conference today that the reprocessing was being done urgently and a new panel would be constituted to consider the applications afresh.

The original decision was made by a

panel consisting of amnesty committee chairman Mr Justice Hassen Mall, Mr Justice Bernard Ngoepe and advocate John Motata.

Mr Potgieter said some of the 109 additional applications were also from ANC leaders claiming collective responsibility for acts carried out by other members of the organisation. Referring to the problem that particular acts and or gross human rights violations had not been specified in the original 37 applications – one of the criteria for being granted amnesty – Mr Potgieter said the committee would ensure that all relevant information was available before arriving at a new decision.

"We are looking at all these matters in the light of the order of court as well as a number of issues that have arisen in the course of litigation," he said. "We will ensure the applications are supplemented

as need be, particularly insofar as incidents are concerned, and that the committee has all the further information the applicants are able to place before us."

Mr Potgieter said the new panel would have to decide whether the applications were for acts which constituted gross human rights violations as defined in terms of the commission's founding act – such as killing, torture, abduction or severe ill-treatment – in which case they would be obliged to hold a public hearing.

If the panel decided the acts did not constitute gross human rights violations, it had the discretion to make a decision in chambers or to hold a public hearing.

Mr Potgieter said the new decision on the applications would probably set a precedent for amnesty decisions on other applications, such as that by Freedom Front leader Constand Viljoen.

ANC amnesties under scrutiny

Star 26/5/98 (252)

All necessary details surrounding particular events will now be required

By JOHN VELD
Cape Town

The Truth Commission's amnesty committee is busy reprocessing the 37 controversial amnesties granted to leading ANC members last year, and will consider these in conjunction with another 109 applications by ANC members

This follows the Truth Commission's successful application to the High Court earlier this month for an order setting aside the committee's original decision to grant amnesty to the 37, announced in December.

Commissioner Denzil Potgieter, of the amnesty committee - whose decisions are made autonomously from the TRC - said yesterday that the reprocessing was being done urgently, and a new panel would consider the applications afresh

Fivaz cleared of allegations

Allegations by two prisoners implicating national police commissioner George Fivaz in human rights violations perpetrated in the Free State in the 1970s and 1980s, were unfounded, TRC chairman Archbishop Desmond Tutu said yesterday.

Andries "Tamatie" Nchake and Joseph Mosia, of Grootvlei Maximum Security Prison, claimed Fivaz and police under his command planted drugs and ammunition on

people, took part in murders, and supplied information upon which the 1982 Lesotho raid was based.

TRC special investigations head Wilson Magadhla said serious contradictions were found in the evidence, and the conclusion was that the two had lied in many respects.

"No evidence could be found to support any of the allegations made against General Fivaz," Tutu said. - Staff Reporter

The original decision was made by amnesty committee chairman Judge Hassen Mall, Judge Bernard Ngoepe and advocate John Motata.

Potgieter said some of the 109 additional applications

were from ANC leaders claiming collective responsibility for acts carried out by other members of the organisation.

Referring to the problem that particular acts and/or gross human rights violations

had not been specified in the original 37 amnesty applications - one of the criteria for being granted amnesty - Potgieter said the amnesty committee would ensure all relevant information was available

He said the new panel would have to decide whether the amnesty applications were for acts that constituted gross human rights violations as defined in terms of the commission's founding act - such as killing, torture, abduction or severe ill-treatment - in which case it would be obliged to hold a public hearing.

If the panel decided they did not constitute gross human rights violations, it could make a decision in chambers or hold a public hearing.

Potgieter said the new decision would probably set a precedent for other applications, such as that by Freedom Front leader Constand Viljoen.

Fivaz comes out clean in TRC probe

By Pamela Dube
Political Reporter

THE Truth and Reconciliation Commission yesterday discontinued investigations into allegations of murder, torture and abuse of power against Fivaz by two Bloemfontein prisoners TRC chairman Archbishop Desmond Tutu said the commission

would discontinue investigations of allegations made by Grootvlei maximum inmates Andries "Tamati" Nchake and Joseph Mosia because "no evidence could be found to support any allegations against General Fivaz". Among other allegations the two made was that during the 1970s and 1980s Fivaz sanctioned and participated in planting drugs and ammunition on dagga-dealers.

Nchake had told *Sowetan* and the TRC that Fivaz had ordered the killing of a Bloemfontein smuggler Dikaparo Lihoko in 1978 at a road block. They alleged Fivaz's unit sent them to Lesotho with false passports to "sell" ammunition to anti-apartheid activists in order to kidnap them and bring them back to South Africa. However the TRC special investigator Mr Wilson Magadhla found

serious contradictions in the prisoners' evidence". Magadhla concluded the prisoners had lied in many respects. According to Tutu, Magadhla had reported that other witnesses gave versions contradicting those of the prisoners. "Sites identified as likely graves were dug up but nothing in the form of human remains could be found". Three weeks ago *Sowetan* joined

Sowetan 26/5/98 (p52)

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Amnesty: 146 get 2nd chance

Sowetan 26/5/98

By Pamela Dube

THE Truth and Reconciliation Commission yesterday announced that a batch of 109 applications from African National Congress members have been located.

The applicants are seeking amnesty along the same lines as the 37 applicants whose granting of amnesty has been thrown out by the courts

The TRC said in a statement that these applications as well as those of the 37 leaders would be considered by a new amnesty committee.

TRC chairman Archbishop Desmond Tutu said, following the Cape High Court ruling on May 8 to set aside the granting of amnesty to ANC leaders, it was decided that a new panel be constituted to review the process.

The 37 leaders included party president Thabo Mbeki, his deputy Mr Jacob Zuma, Defence Minister Mr Joe Modise, Transport Minister Mr Mac Maharaj and Mpumalanga Premier Mathews Phosa.

Tutu said while the amnesty committee was autonomous, the TRC had no powers to overrule their decision

It was felt that "in the interests of the public," a new panel be established to process the applications

In the process of reviewing the applica-

tions, Tutu said the amnesty committee staff located another 109 applications from other ANC leaders

Some applied for amnesty - arguing that "as members of the ANC leadership - they accept collective responsibility for acts carried out by others in the name of the organisation they led"

The high court's dismissal of the granting of amnesty was initially argued on the basis that the 37 did not make public their acts and had merely applied on the basis of collective responsibility

Public hearing

Tutu said the applicants could be brought forward for a public hearing should an applicant give details which indicate the actions fell within the category of "gross human rights violations"

This means torture, abduction, severe ill-treatment or murder. Should an applicant give details of acts not constituting gross human rights violations, Tutu said "then the committee has a right to hold a public hearing but is not required to".

In a case where the applicant did not declare a gross violation and received amnesty for an activity not constituting a gross violation, Tutu said they would be liable to prosecution or civil actions later, if found to have participated in such acts

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Don't interfere in government policy-making, judges warned

Star 26/6/98

(252)

By SIMON ZWANE

Justice Minister Dullah Omar has warned the judiciary to stop meddling in policy-making, saying they would undermine their own independence.

The judiciary has come under attack from the ANC after critical statements by some judges who favour the return of capital punishment, which the Government has outlawed.

Speaking at the launch of a project to draft equality legislation in Pretoria yesterday, Omar said policy-making was the responsibility of the Government, and "the moment courts meddle in policy-making, they begin to dig the grave for the notion of judicial independence".

He said the judiciary had to respect the principle of separation of powers, in terms of which policy-making was the preserve of political authority.

Peter Hodes, chairman of the General Council of the Bar of South Africa, said the courts had always accepted that policy-making was the preserve of the Government, provided the

Government acted within the confines of the constitution.

He added that utterances such as those made by Mr Justice Curlewis, that he would have imposed the death penalty if it were still permissible were inappropriate.

"That is a matter for the Government, and not the courts, to pronounce on," he said.

Judges, particularly in Kwa-Zulu Natal, have angered the ANC by resisting the appointment of an African judge as provincial deputy judge president.

Omar urged them to realise that frustrating transformation to create real equality was unacceptable.

He added that a strongly interventionist state was needed to eliminate the inequalities created by apartheid.

Without state intervention, equality would not be realised in many areas in life, Omar said.

■ South African Human Rights Commission chairman Barney Pitsoa Moleketi welcomed the unveiling of the equality legislation-drafting project.

New panel to investigate blanket amnesty

(252)
BD 26/5/98
Kevin O'Grady

A NEW panel would be appointed to review the amnesty applications of 37 senior African National Congress members whose immunity was overturned by the Cape High Court earlier this month, truth commission chairman Desmond Tutu said yesterday.

The ANC members, including Deputy President Thabo Mbeki, were granted amnesty for acts not specified in their applications and without public hearings. The amnesties were then successfully challenged by the commission and the National Party.

Tutu said that although the

amnesty committee was autonomous and the full commission had no power to review the process by which it reached its decisions, the committee had reported the progress it made on the matter of the 37 amnesties.

It had decided a new panel would consider the applications, along with an additional 109 applications which had been located by amnesty committee staff.

Some of the additional applicants had lodged applications, in a similar way to the 37, on the basis that "as members of the ANC leadership, they accept collective responsibility for acts carried out by others in the name of the organ-

isation they led", Tutu said.

The committee would ensure that further details would be requested from the applicants if they were required in order for a decision to be reached.

As required by law, public hearings would be held for applicants who gave details of specific acts, omissions or offences which constituted gross human rights violations such as killing, torture, abduction or severe ill treatment.

If an applicant received amnesty for offences not considered gross human rights violations, but failed to declare human rights violations, they could be liable for civil or criminal prosecution.

Truth commission to wrap up probe of chemical warfare

JOHANNESBURG — SA's truth panel is to put apartheid's secret chemical and biological warfare effort under the microscope before it wraps up its inquiries into racist atrocities at the end of June

The commission will examine experiments carried out on humans and animals between 1981 and 1994 and the involvement of the apartheid state in

the development of chemical and biological warfare

After more than two years investigating the secret research, the truth panel has identified a dozen military researchers and scientists who will be called to the hearings as witnesses

Wouter Basson, 47, will be a key witness. He is said to have masterminded the programme

to develop apartheid's chemical and biological arsenal, code-named Project Coast

The former head of the SA army's Seventh Medical Battalion hospital in Pretoria, Basson is known to secret services across the world. Several countries, including the US, have accused him of trafficking military technology

Basson is out on bail facing

fraud and drugs charges

After his arrest last year police seized documents which included notes on the formulae for chemicals listed by the International Chemical Weapons Convention. However, the defence force had the information classified as a state secret

The hearings will be held in Cape Town from June 8-12 — Sapa-AFP

(252) BD 27/5/98

No amnesty for three IFP men

28/5/98

(272)

DURBAN — The Truth and Reconciliation Commission's amnesty committee has turned down amnesty applications from three Inkatha Freedom Party (IFP) members whose applications were heard in Durban in March, the commission said yesterday.

Mshengu Ngobese and Nimrod Mthembu sought amnesty for the killing of Siza Cele and Zondwe Khumalo at KwaMaphumulo, near Stanger, in 1991.

The commission said the evidence before the amnesty committee showed Ngobese and Mthembu met Cele as they were leaving a traditional ceremony and stabbed him to death, forcing his companion to flee. They then went to Khumalo's home where they shot her with a homemade shotgun.

During their appearance before the committee, the two men admitted they had been drinking when they killed the two people after attending a traditional feast. They told the committee they killed Khumalo because they be-

lieved she was opposed to the IFP.

Rejecting the applications, the amnesty committee said it was hard to accept that alcohol did not play a major role in the killings.

"No evidence exists that any of the victims was in fact a member of the African National Congress. The acts of killing were not directed at a clear political opponent, nor were they executed on behalf of or in furtherance of the objective of a political organisation," it said.

In a separate application, Baba Langelihle Khomo applied for amnesty for shooting people attending a traditional ceremony, killing eight and injuring six others, at Ndlovu's Kraal in Kwa-Ndemi Reserve near Maritzburg on March 7 1992.

He was convicted and jailed for 20 years for killing Kati Ndlovu, Zinhle Hlengwa, Noyazisa Gumede, Gjeni Ndlovu, Mandlakapheli Tinga, Michael Gwala, Mboshwa Mlaba, Jabulani Msibila and injuring six others.

In his application form, Khomo admitted the attack was carried out in line with the aims of the IFP, of which he was a member.

Yet, giving evidence before the committee, he denied involvement in the attack, saying it was carried out by unknown gunmen.

When the committee drew his attention to the fact he had admitted involvement in his application, Khomo said he was innocent but had been advised that if he denied guilt, his application would be denied in chambers and he would not get the chance to tell the committee his story.

In its decision, the amnesty committee said the court judgment indicated there might have been a political motive behind the attack at Ndlovu's Kraal.

Yet by denying any involvement in the incident, the applicant could not satisfy the committee he had made a full disclosure of his involvement in a politically motivated crime as required by the law — Sapa

Former MK man gets amnesty

(252) AD 2915198

PORT ELIZABETH — The truth commission's amnesty committee has granted amnesty to a former Umkhonto we Sizwe cadre jailed for unlawful possession of firearms and ammunition, the commission said in a statement yesterday.

Nyameko Mpho Faku, 31, from Swartkops Valley, Port Elizabeth, was convicted and sentenced to two years' imprisonment for unlawful possession of firearms and ammunition in 1993.

"His application was dealt with in chambers as the offence for which he applied for amnesty did not fall within the definition of a gross human rights violation in the law which governs TRC operations," the statement said. — Sapa.